



EUROPEAN  
COMMISSION

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ANNEX

ANNEX

to the

**COMMUNICATION FROM THE COMMISSION**

**Approval of the content of a draft Commission Regulation declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union and repealing Commission Regulation (EU) No 702/2014**

## ANNEX

### DRAFT COMMISSION REGULATION (EU) .../...

of **XXX**

**declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union and repealing Commission Regulation (EU) No 702/2014**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid<sup>1</sup>, and in particular Article 1(1), points (a) and (b) thereof,

Having published a draft of this Regulation in accordance with Article 6 and Article 8(2) of Regulation (EU) 2015/1588<sup>2</sup>,

Having consulted the Advisory Committee on State Aid,

Whereas:

- (1) State funding meeting the criteria laid down in Article 107(1) of the Treaty constitutes State aid and requires notification to the Commission by virtue of Article 108(3) thereof. However, pursuant to Article 109 of the Treaty, the Council may determine categories of aid that are exempted from that notification requirement. In accordance with Article 108(4) of the Treaty the Commission may adopt regulations relating to those categories of aid. Regulation (EU) 2015/1588 empowers the Commission to declare, in accordance with Article 109 of the Treaty, that certain categories of aid may be exempted from the notification requirement of Article 108(3) of the Treaty. On the basis of that Regulation, the Commission adopted Commission Regulation (EU) No 702/2014<sup>3</sup> declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union which applies until 31 December 2022.
- (2) Article 42 of the Treaty provides that the rules on competition apply to the production of and trade in agricultural products only to the extent determined by the European Parliament and the Council. Article 211 of Regulation (EU) No 1308/2013 of the European Parliament and the Council<sup>4</sup> provides that State aid rules apply to aid for the

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<sup>1</sup> OJ L 248, 24.9.2015, p. 1.

<sup>2</sup> OJ [...], [...], p. [...].

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

<sup>4</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulation (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

production of and trade in agricultural products, subject to specific derogations. Article 211(2) of Regulation (EU) No 1308/2013 provides that State aid rules do not apply to payments made by Member States for measures provided for in that Regulation which are partly or wholly financed by the Union and for measures included in Articles 213 to 218 of that Regulation. Moreover, pursuant to Article 145 of Regulation (EU) of the European Parliament and of the Council [SPR], State aid rules do not apply to payments made by Member States in accordance with that Regulation nor to additional national financing, within the scope of Article 42 of the Treaty. Such payments intended to provide additional national financing within the scope of Article 42 of the Treaty, have to comply with the criteria of Regulation (EU) [SPR] in order to be approved by the Commission as part of the CAP Strategic Plan of a given Member State. Nevertheless, State aid rules apply, both to the part co-financed under the European Agricultural Fund for Rural Development (EAFRD) and to additional national financing for measures falling outside the scope of Article 42 of the Treaty.

- (3) As the economic effects of aid do not change depending on whether or not it is partly financed by the Union, or whether it is financed by a Member State alone, there should be consistency and coherence between the Commission's policy in respect of the control of State aid, and the support which is granted under the Union's own common agricultural and rural development policy.
- (4) The scope of this Regulation should therefore be aligned with that of Regulation (EU) [SPR] as regards measures co-financed by the EAFRD.
- (5) This Regulation should allow for a greater simplification, and should enhance transparency, effective evaluation and the control of compliance with the State aid rules at national and Union levels, while preserving the institutional competences of the Commission and the Member States.
- (6) The Commission has on numerous occasions applied Articles 107 and 108 of the Treaty to the agricultural and forestry sectors, in line with the conditions laid down in the 2014 Guidelines on State aid in the agriculture and forestry sectors and in rural areas<sup>5</sup> (hereinafter 'the 2014 Guidelines'). It has thus gained considerable experience in those fields as regards aid measures that are still subject to Member States' obligation to notify aid to the Commission. The Commission's experience has thus enabled it to better define the conditions under which certain categories of aid can be considered compatible with the internal market and to extend the scope of block exemptions, while still ensuring the transparency and proportionality of aid.
- (7) The general conditions for the application of this Regulation should be determined on the basis of a set of common principles that ensure that the aid has a clear incentive effect, is appropriate and proportionate, is granted in full transparency and subject to a control mechanism and regular evaluation, and does not adversely affect competition and trading conditions.
- (8) Aid that fulfils all the conditions laid down in this Regulation, both general and specific to the relevant categories of aid, should be exempted from the notification requirement laid down in Article 108(3) of the Treaty. With a view to ensuring

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<sup>5</sup> 2014 European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas, OJ C 204, 1.7.2014, p. 1. Amended by the Notices published in OJ C 390, 24.11.2015, p. 4; OJ C 139, 20.4.2018, p. 3 and OJ C 403, 9.11.2018, p. 10, and by the Corrigendum published in OJ C 265, 21.7.2016, p. 5.

efficient supervision and simplifying administration, but without weakening Commission monitoring, exempted aid (aid schemes and individual aid) should contain a specific reference to this Regulation.

- (9) State aid within the meaning of Article 107(1) of the Treaty not covered by this Regulation remains subject to the notification requirement of Article 108(3) of the Treaty. This Regulation is without prejudice to the possibility for Member States to notify aid the objectives of which correspond to objectives covered by this Regulation.
- (10) In view of the greater potential impact of large schemes on trade and competition, aid schemes with an average annual State aid budget exceeding a threshold based on an absolute value should be subject to State aid evaluation. The evaluation should aim at verifying whether the assumptions and conditions underlying the compatibility of the scheme have been achieved, as well as the effectiveness of the aid measure in the light of its general and specific objectives and should provide indications on the impact of the scheme on competition and trade. The State aid evaluation should be carried out on the basis of an evaluation plan approved by the Commission. While such plan should normally be drawn up at the moment of the design of the scheme and approved in time for the scheme to enter into force, this may not be possible in all cases. Therefore, in order not to delay their entry into force, this Regulation will apply to such schemes for a maximum period of six months. The Commission should be able to extend this period upon approval of the evaluation plan. To this end, the evaluation plan, as well as any information needed for the Commission to assess the evaluation plans and to take a decision, should be notified to the Commission within 20 working days following the entry into force of the scheme.
- (11) This Regulation should not apply to aid contingent upon the use of domestic over imported products or aid to export-related activities. In particular, it should not apply to aid financing the establishment and operation of a distribution network in another Member State or third country. Aid towards the cost of participating in trade fairs or of studies or consultancy services needed for the launch of a new or existing product on a new market in another Member State or third country should not constitute aid to export-related activities.
- (12) The Commission should ensure that authorised aid does not adversely affect trading conditions to an extent that is contrary to the general interest. Therefore, aid in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market should be excluded from the scope of this Regulation. However, it is important to act rapidly in the context of compensation aid in risk and crisis situations, such as aid to make good the damage caused by natural disasters or plant pests and aid for the costs of prevention, control and eradication of animal diseases. Therefore, the exclusion from aid should not apply in such situations. Moreover, given the nature of such schemes where individual beneficiaries are not identifiable, it should neither apply to aid of a limited amount for small and medium-sized enterprises ('SMEs') participating in community-led local development ('CLLD') or European Innovation Partnership for agricultural productivity and sustainability ('EIP') Operational Group projects.
- (13) Aid granted to undertakings in difficulty should, as a general rule, be excluded from the scope of this Regulation since such aid should be assessed under the Guidelines on State aid for rescuing and restructuring firms in difficulty<sup>6</sup>. However, it is necessary to

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<sup>6</sup> OJ C 249, 31.7.2014, p. 1.

establish certain exceptions from this rule. Firstly, this Regulation should indeed apply to undertakings in difficulty in cases of subsidised services as well as in cases of aid to SMEs participating in or benefitting from CLLD projects or EIP Operational projects, where individual beneficiaries of such schemes can hardly be identified. Secondly, it should apply to such undertakings in cases where public health protection is at stake, i.e. in cases of aid for the costs of the eradication of animal diseases and of aid for the destruction and removal of fallen stock. Thirdly, due to Article 107(2), point (b), of the Treaty, this Regulation also has to apply to undertakings in difficulty in cases where aid is paid to make good the damage caused by natural disasters. The same should apply in cases where the reason why an undertaking falls into difficulty is due to damage caused by events outside the control of the undertaking concerned, namely adverse climatic events that can be assimilated to a natural disaster, by animal diseases or plants pests, by protected animals, by forest fires, catastrophic events in forests and climate change related events in forests..

- (14) If a State aid or the conditions attached to it, including its financing method when it forms an integral part of it, entail a non-severable violation of Union legislation, the aid may not be declared compatible with the internal market. This Regulation should therefore not apply to aid which entails a non-severable violation of Union legislation
- (15) State aid enforcement is highly dependent on the cooperation of Member States. Therefore, Member States should take all necessary measures to ensure compliance with this Regulation, including compliance of individual aid granted under block-exempted schemes.
- (16) Due to the high risk of adversely affecting trading conditions, large amounts of aid granted either individually or cumulatively should be assessed by the Commission upon notification. Thresholds by maximum aid amount should therefore be set for certain categories of investment aid falling within the scope of this Regulation at a level which takes into account the category of aid concerned and its likely effect on trading conditions. Any aid granted above those thresholds should remain subject to the notification requirement of Article 108(3) of the Treaty. The thresholds laid down in this Regulation should not be circumvented by the artificial splitting up of aid schemes or aid projects, for example into several aid schemes or projects with similar characteristics, objectives or beneficiaries. Other categories of aid, to the extent that the compatibility conditions and the maximum aid intensities or the maximum aid amounts laid down in this Regulation are respected, should not be considered as having a high risk of adversely affecting trading conditions.
- (17) For the purpose of transparency, equal treatment and effective monitoring, this Regulation should apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent *ex ante* without the need to undertake a risk assessment ('transparent aid').
- (18) With regard to certain specific aid instruments, such as loans, guarantees, tax measures and, in particular, repayable advances, this Regulation should define the conditions under which they can be considered transparent. Aid comprised in guarantees should be considered as transparent if the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down for the respective type of undertaking. It should also be considered transparent if before the implementation of the measure, the methodology used to calculate the aid intensity of the state guarantee has been notified to and approved by the Commission in line with the Notice on the application of

Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees<sup>7</sup> (the “Notice on Guarantees”). For the purpose of this Regulation, aid comprised in risk finance measures and capital injections should not be considered as transparent aid.

- (19) Aid which would otherwise fall within the scope of this Regulation but is not transparent should always be notified to the Commission. Notification of non-transparent aid should be assessed by the Commission in particular in the light of the criteria set out in the 2023 European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas (the “2023 Guidelines”) or the other relevant frameworks, guidelines, communications and notices.
- (20) In order to ensure that aid is necessary and acts as an incentive to further develop activities or projects, this Regulation should not apply to aid for activities or projects in which the beneficiary would in any case engage even in the absence of the aid. No aid should be granted retroactively in respect of activities or projects which have already been undertaken by the beneficiary. Aid should only be exempted from the notification requirement of Article 108(3) of the Treaty in accordance with this Regulation where the activity or the work on the aided project starts after the beneficiary has submitted a written application for the aid.
- (21) As regards any ad hoc aid covered by this Regulation granted to a beneficiary which is a large enterprise, the Member State should, in addition to the conditions on the incentive effect applicable to SMEs, also ensure that the beneficiary has analysed, in an internal document, the viability of the aided project or activity with aid and without aid. The Member State should verify that this internal document confirms a material increase in the scope of the project or activity, a material increase in the total amount spent by the beneficiary on the aided project or activity or a material increase in the speed of completion of the project or activity concerned. It should also be possible to establish the incentive effect on the basis of the fact that the investment project or the activity would not have been carried out as such in the rural area concerned in the absence of the aid.
- (22) Automatic aid schemes in the form of tax advantages should continue to be subject to a specific condition concerning the incentive effect, in the light of the fact that the aid resulting from such aid schemes is granted automatically. That specific condition means that those aid schemes should have been adopted before the activity or the work on the aided project/activity started. However, this condition should not apply in the case of fiscal successor schemes provided the activity was already covered by the previous fiscal schemes in the form of tax advantages. For the assessment of the incentive effect of successor aid schemes, the crucial moment is the moment when the tax measure was set out for the first time in the original scheme.
- (23) Regarding Natura 2000 for agriculture, the aim is to ensure environmental performance and efficiency of the SMEs active in the agricultural sector. The aid per hectare should comply with Union legislation and with the national laws of the Member States concerned on environmental protection, the achievement of agri-environment-climate objectives, including biodiversity conservation status of species and habitats as well as enhancing the public amenity value of Natura 2000 areas.
- (24) As regards aid for land consolidation, promotion measures in the form of publications aimed at raising awareness of agricultural products among the wider public, aid to compensate for losses caused by adverse climatic event which can be assimilated to a

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<sup>7</sup> OJ C 155, 20.6.2008.

natural disaster and other adverse climatic events, aid to compensate for the costs of the eradication of animal diseases and plant pests and for losses caused by those animal diseases or plant pests, aid to cover the costs of the removal and destruction of fallen stock, aid for research and development, aid to make good the damage caused by natural disasters and aid for investments in favour of conservation of cultural and natural heritage on the agricultural holding, the existence of an incentive effect should not be required or should be deemed to be present if the specific conditions set out for those categories of aid in this Regulation are fulfilled.

- (25) With a view to ensuring that aid is proportionate and limited to the amount necessary, the maximum aid amounts should, whenever possible, be expressed in terms of aid intensities in relation to a set of eligible costs. Where the maximum aid intensity cannot be set, because the eligible costs cannot be identified or in order to provide simpler instruments for small amounts, maximum aid amounts defined in nominal terms should be set out in order to ensure proportionality of the aid. The aid intensity and the maximum aid amounts should be fixed, at a level that minimises distortions of competition in the aided sector while appropriately addressing the objective of facilitating the development of the economic activities of the beneficiaries in the agricultural sector, the rural areas, or the forestry sector. In the interests of coherence with Union-financed rural development interventions, the ceilings should be harmonised with those set out in Regulation (EU) [SPR] insofar as this is in line with the State aid principles resulting from the application of Article 107 (3), point (c), of the Treaty.
- (26) For the calculation of the aid intensity, only eligible costs should be included. This Regulation should not exempt aid which exceeds the relevant aid intensity as a result of including ineligible costs. The identification of the eligible costs should be supported by clear, specific and contemporary documentary evidence. The calculation should be based on amounts before any deduction of tax or other charges. Aid payable in several instalments should be discounted to its value on the date of granting the aid. The eligible costs should also be discounted to their value on the date of granting the aid. The interest rate to be used for discounting purposes and for calculating the amount of aid in the case of aid which does not take the form of a grant should be, respectively, the discount rate and the reference rate applicable on the date of granting the aid, as laid down in the Communication from the Commission on the revision of the method for setting the reference and discount rates<sup>8</sup>. Where aid is granted in a form other than a grant, the aid amount should be expressed as gross grant equivalent. Where aid is granted by means of tax advantages, aid tranches should be discounted on the basis of the discount rates applicable on the various dates when the tax advantages become effective. The use of aid in the form of repayable advances should be promoted, since such risk-sharing instruments are conducive to a strengthened incentive effect of the aid. It is therefore appropriate to establish that where aid is granted in the form of repayable advances the applicable aid intensities laid down in this Regulation may be increased.
- (27) In the case of tax advantages on future taxes, the applicable discount rate and the exact amount of the aid tranches may not be known in advance. In such a case, Member States should set in advance a cap on the discounted value of the aid respecting the applicable aid intensity. Subsequently, when the amount of the aid tranche at a given date becomes known, discounting can take place on the basis of the discount rate

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<sup>8</sup> OJ C 14, 19.1.2008, p. 6.

applicable at that time. The discounted value of each aid tranche should be deducted from the overall amount of the cap ('capped amount').

- (28) To determine whether the individual notification thresholds and the maximum aid intensities or the maximum aid amounts laid down in this Regulation are respected, the total amount of the State aid for the aided activity or project should be taken into account. Moreover, this Regulation should specify the circumstances under which different categories of aid may be cumulated. Aid exempted from notification by this Regulation and any other compatible aid exempted under other Regulation or approved by the Commission may be cumulated as long as those measures concern different identifiable eligible costs. Where different sources of aid are related to the same – partly or fully overlapping – identifiable eligible costs, cumulation should be allowed up to the highest aid intensity or aid amount applicable to that aid under this Regulation. This Regulation should also set out special rules for cumulation of aid with and without identifiable eligible costs, and for cumulation with *de minimis* aid. *De minimis* aid is often not granted for or attributable to specific identifiable eligible costs. In such a case it should be possible to freely cumulate *de minimis* aid with State aid exempted under this Regulation. Where, however, *de minimis* aid is granted for the same identifiable eligible costs as State aid exempted under this Regulation, cumulation should only be allowed up to the maximum aid intensity as set out in Chapter III of this Regulation.
- (29) Union funding centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union, that is not directly or indirectly under the control of Member States, does not constitute State aid. Where such Union funding is combined with State aid, only the latter should be considered for determining whether notification thresholds and maximum aid intensities or maximum aid amounts are respected, provided the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rate laid down in the applicable rules of Union law.
- (30) State aid within the meaning of Article 107(1) of the Treaty is, in principle, prohibited. However under, Article 107(2) and (3) of the Treaty the Commission shall, or may respectively, allow under certain conditions Member States to grant State aid. It is therefore important that for all parties to be able to check whether an aid is granted in compliance with the applicable rules. Transparency of State aid is, therefore, essential for the correct application of Treaty rules and leads to better compliance, greater accountability, peer review and ultimately more effective public spending. To ensure transparency, Member States should be required to establish comprehensive State aid websites, at regional or national level, setting out summary information about each aid measure exempted under this Regulation. That obligation should be a condition for the compatibility of the individual aid with the internal market. Following the standard practice regarding publication of information in Directive (EU) 2019/1024 of the European Parliament and of the Council<sup>9</sup>, a standard format should be used which allows the information to be searched, downloaded and easily published on the Internet. The links to the State aid websites of all the Member States should be published on the Commission's website. In accordance with Article 3(2) of Regulation (EU) 2015/1588, summary information on each aid measure exempted under this Regulation should be published on the website of the Commission.

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<sup>9</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).



- (31) As regards the publication of information on individual aid awards it is appropriate to set thresholds above which that publication may be considered proportionate taking into account the importance of the aid. The Commission's experience shows that for the period 2014-2019, with a publication threshold set at EUR 60 000 for primary agricultural production, around 30 % of the aids granted were subject to publication. Therefore, in order to increase the effectiveness of transparency requirements, and since the average amount of investment aid for primary production granted for the period 2014-2019 is estimated at around EUR 17 000, it is appropriate to lower the publication threshold to EUR 10 000 for primary agricultural production.
- (32) To ensure effective monitoring, it is appropriate in accordance with Article 3(2) of Regulation (EU) 2015/1588, to establish a standard format in which Member States should provide the Commission with summary information whenever, in accordance with this Regulation, an aid scheme is implemented or an individual aid is granted outside any aid scheme. Moreover, it is appropriate in accordance with Article 5 of Commission Regulation (EC) No 794/2004<sup>10</sup> and Article 3(4) of Regulation (EU) 2015/1588 to establish rules concerning annual reporting on aid exempted from the notification requirement of Article 108(3) of the Treaty in accordance with the conditions laid down in this Regulation, including specific requirements for certain categories of aid, to be submitted to the Commission by Member States.
- (33) In view of the wide availability of the necessary technology, the summary information and the annual report should be in computerised format and transmitted to the Commission.
- (34) Given the limitation period for the recovery of aid established by Article 17 of Council Regulation (EU) 2015/1589<sup>11</sup>, it is appropriate in accordance with Article 3(3) of Regulation (EU) 2015/1588 to establish rules concerning the records that Member States should keep regarding the aid exempted from the notification requirement of Article 108(3) of the Treaty by this Regulation.
- (35) To reinforce the effectiveness of compatibility conditions set out in this Regulation, it should be possible for the Commission to withdraw the benefit of the block exemption for the future aid measures in the event of failure to comply with these requirements. The Commission should be able to restrict the withdrawal of the benefit of the block exemption to certain types of aid, certain beneficiaries or aid measures adopted by certain authorities, where non-compliance with this Regulation affects only a limited group of measures or certain authorities. Such a targeted withdrawal should provide a proportionate remedy directly linked to the identified non-compliance with this Regulation. Where an aid is not notified and does not fulfil all the conditions to be exempted from notification, it constitutes an unlawful aid, which the Commission will examine in the framework of the relevant procedure as set out in Regulation (EU) 2015/1589 for non-notified aid. In case of failure to fulfil the requirements of Chapter II, the withdrawal of the benefit of the block exemption in respect of the future aid measures does not affect the fact that the past measures complying with this Regulation were block exempted.

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<sup>10</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).

<sup>11</sup> Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p.9).

- (36) SMEs play a decisive role in job creation and, more generally, act as a factor of social stability and drive the economy. However, their development may be limited by market failures, leading to SMEs suffering from typical handicaps. SMEs often have difficulty in obtaining capital or loans, given the risk-averse nature of certain financial markets and the limited collateral that they may be able to offer. Their limited resources may also restrict their access to information, notably as regards new technology and potential markets. To facilitate the development of the economic activities of SMEs, this Regulation should therefore exempt certain categories of aid in favour of SMEs from the notification requirement of Article 108(3) of the Treaty.
- (37) To eliminate differences that might give rise to distortions of competition and to facilitate coordination between different Union and national initiatives concerning SMEs as well as for reasons of administrative clarity and legal certainty, the definition of SME used for the purpose of this Regulation should be based on the definitions laid down in Commission Recommendation 2003/361/EC<sup>12</sup>.
- (38) To ensure coherence with the rural development policy and to achieve simplification of the rules based on the experience already gained by the Commission in the light of the application of the 2014 Guidelines it is appropriate to exempt from the notification requirement of Article 108(3) of the Treaty, various categories of aid in favour of undertakings active in the agricultural and forestry sectors without prejudice to the application of any substantive rules in force.
- (39) It is also appropriate to consider that agriculture and forestry are sectors specifically exposed to adverse climatic events, animal diseases, plant pests and damages caused by protected animals. Experience shows that these sectors are hit extraordinarily by such events and that farmers and foresters suffer considerable damage from these events. Aid measures to make good such damages are therefore considered to be a suitable tool to help undertakings to recover from such damages and, thus, to remain in business and in that way to ensure the development of economic activities in those sectors.
- (40) In the agricultural sector, exemptions should apply to aid for SMEs for investments in the production, processing and marketing of agricultural products, land consolidation, relocation of farm buildings, business start-ups, young farmers and small farms, producer groups, quality schemes, knowledge transfer and information actions, advisory services, promotion activities, farm replacement services as well as risk and crisis management related to adverse climatic events, animal diseases, plant pests and payment of insurance premiums. The exemptions should also apply to undertakings of all sizes for aid to investments in favour of conservation of cultural and natural heritage located on agricultural holdings, aid to make good the damage caused by natural disasters in the agricultural sector as well as aid for research and development.
- (41) Exemptions should apply to aid for forestry and certain non-agricultural activities in rural areas that are co-financed as rural development interventions under the EAFRD as well as to aid for knowledge transfer and information actions, research and development and land consolidation.
- (42) Because of the risk of distortions of competition resulting from targeted investment aid in the sector of primary agricultural production, investment aid, exempted from the notification requirement of Article 108(3) of the Treaty, should not be limited to a

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<sup>12</sup> Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

specific agricultural product. This condition should not prevent a Member State from excluding certain agricultural products from the scope of a particular aid, where no normal market outlets can be found or where there is overcapacity in the internal market. Moreover, aid to certain types of investment should per se not qualify for exemption from the notification requirement of Article 108(3) of the Treaty under this Regulation.

- (43) To ensure the appropriate balance between minimising distortions of competition and promoting energy and resource efficiency, in case of investments in agricultural holdings linked to primary agricultural production, aid should be granted only for investment linked to the production on farm-level of biofuels or energy from renewable sources and only where that production does not exceed the average annual consumption of fuel or energy of the farm. In such cases, aid to biofuels should only be covered in so far as it is granted for sustainable biofuels in line with the Directive (EU) 2018/2001 of the European Parliament and of the Council<sup>13</sup>.
- (44) In order to incentivise the shift towards the production of more advanced forms of biofuels, as foreseen by the horizontal environmental and energy State aid rules, aid for food based biofuels should be excluded from this Regulation in case of aid for investments in connection with the processing of agricultural products.
- (45) Regulation (EU) 2015/1588 enables the Commission, to declare by means of regulations, certain categories of aid compatible with the internal market when the Commission has sufficient experience to define general compatibility criteria. Given the experience gained during the period 2014 to 2021 in the assessment of compatibility of numerous State aids in the light of the 2014 Guidelines, the Commission may now make use of its powers to exempt from the notification requirement State aid to SMEs active in primary agricultural production, aid for basic services and village renewal co-financed by the EAFRD, measures to prevent and make good the damage caused by protected animals as well as aid to compensate for disadvantages related to Natura 2000 areas.
- (46) Moreover, as regards the forestry sector, the Commission may, based on its experience under the 2014 Guidelines, exempt from the notification requirement measures that are financed exclusively from national funds without prejudice to the application of any substantive rules in force.
- (47) In the period from 2014 to 2020 and in application of the 2014 Guidelines, the Commission approved 52 aid schemes regarding compensation for damages caused by protected animals to the agricultural sector. Damages caused by protected animals require urgent action by the granting authorities to restore the means of production and the economic activity as rapidly as possible so that the undertakings concerned may remain in business and in that way to ensure the development of economic activities. The Commission's experience shows that this aid does not typically give rise to any significant distortion of competition in the internal market given its compensatory nature and the existence of clear criteria for compatibility with the internal market. It is therefore appropriate to exempt this aid from the State aid notification requirement.
- (48) Aid to make good the damages caused by protected animals should be available to SMEs active in the primary agricultural production. The conditions to exempt aid to make good the damages caused by protected animals should follow the already

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<sup>13</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

established practice for other compensatory aids such as aids compensating for the loss of animals or plants destroyed on the basis of the market value, paying for the veterinary or labour costs and compensating the material damage to the farm equipment, machinery and farm buildings and stocks.

- (49) The Commission has applied Articles 107 and 108 of the Treaty to aid for disadvantages related to Natura 2000 in the agricultural sector in the framework of the 2014 Guidelines. In the period from 2014 to 2020, the Commission approved about 10 such aid schemes. The Commission's experience shows that this aid does not typically give rise to any significant distortion of competition but may incentivise economic activities subject to additional constraints in such areas. It is therefore appropriate that the Commission should make use of the powers conferred on it by Regulation (EU) 2015/1588, as regards aid for disadvantages related to Natura 2000 in the agricultural sector.
- (50) The exemption of aid for disadvantages related to Natura 2000 in the agricultural sector should apply only to SMEs active in the primary agricultural production.
- (51) The Commission has applied Articles 107 and 108 of the Treaty to undertakings active in the forestry sector in numerous decisions, in particular in the framework of the 2014 Guidelines. In the period from 2014 to 2020, the Commission approved more than 200 aid schemes in favour of the forestry sector in accordance with those Guidelines. According to the Commission's experience, forestry aid measures have not created any significant distortion of competition in the internal market given the existence of clear compatibility criteria. In the light of that experience, and for the sake of simplification and procedural economy, it should therefore be possible to exempt those aid measures from the notification obligation irrespective of whether they are co-financed by the EAFRD. It is therefore appropriate that the Commission should make use of the powers conferred on it by Regulation (EU) 2015/1588 for aid for afforestation and creation of the woodland; aid for agroforestry systems; aid for the prevention and restoration of the damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests and catastrophic events; aid for investments improving the resilience and environmental value of forest ecosystems; aid for area-specific disadvantages resulting from certain mandatory requirements as defined in Article 3 of Council Directive 92/43/EEC<sup>14</sup> and in Article 3 of Directive 2009/147/EC of the European Parliament and of the Council<sup>15</sup>; aid for forest-environmental and climate services and forest conservation; aid investments in infrastructure related to the development, modernisation or adaptation of the forestry sector; aid for investments in forestry technologies and in processing, in mobilising and in marketing of forestry products; aid for conservation of genetic resources in forestry and start-up aid for producer groups and organisations in the forestry sector.
- (52) In order to incentivise grouped initiatives in the forestry sector, the Commission has applied Articles 107 and 108 of the Treaty to aid in favour of start-up aid for producer groups and organisations in the forestry sector. In the period from 2014 to 2020, the Commission approved such aid in 5 cases. In the agricultural sector, such aid was already exempted from notification under Regulation (EU) No 702/2014. It is

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<sup>14</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>15</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

therefore appropriate to exempt start-up aid for producer groups and organisations in the forestry sector from the State aid notification requirement.

- (53) Economic diversification and the creation of new economic activities are essential for the development and competitiveness of rural areas and in particular for the SMEs which are the backbone of the Union rural economy. Regulation (EU) [SPR] provides for measures to support non-agricultural business development in rural areas aimed at employment promotion, the setting up of quality jobs in rural areas, the maintenance of already existing jobs, a reduction of seasonality fluctuations in employment, development of non-agricultural sectors outside agriculture and food processing while fostering at the same time business integration and local inter-sectoral links.
- (54) To ensure coherence with Regulation (EU) [SPR] and to achieve simplification of the rules to obtain State aid clearance for the co-financed part and the additional national financing of the CAP Strategic Plan, notification requirement should not apply to various categories of aid in favour of SMEs active in rural areas, encompassing aid for business start-ups, new participation of farmers in quality schemes for cotton and foodstuff and promotion measures in favour of foodstuffs covered by a quality scheme. Such aid measures must be identical to the underlying rural development interventions and the exempted aid must only be granted pursuant to and in conformity with the CAP Strategic Plan of the Member State concerned.
- (55) The Commission has applied Articles 107 and 108 of the Treaty to aid in favour of basic services and village renewal in rural areas in numerous cases, in particular in the framework of the 2014 Guidelines. In the period from 2014 to 2020, the Commission has approved 27 aid schemes relating to basic services and village renewal in rural areas. In the Commission's experience, forestry aid measures have not had any significant distortion of competition in the internal market, given the existence of clear compatibility criteria, and that the aid has contributed to economic diversification and the creation of new economic activities. It is therefore appropriate to exempt aids in favour of basic services and village renewal in rural areas from the State aid notification requirement.
- (56) However, aid in favour of basic services and village renewal in rural areas should be exempted from the notification requirement only if it forms part of a CAP Strategic Plan validated by the Commission in the framework of Regulation (EU) [SPR].
- (57) State aid granted to undertakings participating in EIP Operational Group projects covered by Article 77 of Regulation (EU) [SPR], or in community-led local development ('CLLD') projects, designated as LEADER under Regulation (EU) [SPR] and to which Regulation (EU) 2021/1060 applies, has little impact on competition, in particular, in view of the positive role the aid plays for sharing knowledge, especially for local and farming communities, as well as the often collective nature of the aid, and its relatively small scale. The nature of these projects is integrated, multi-actor and multi-sector, which can lead to certain difficulties for their classification under State aid law. Given the local nature of individual EIP Operational Group and CLLD projects, selected on the basis of a multi-annual local development strategy determined and implemented by public-private partnership and their orientation to community, social, environmental and climate interest, this Regulation should address certain difficulties faced by EIP Operational Group and CLLD projects in order to facilitate their compliance with State aid rules.
- (58) Given the limited effect on trade and competition of small amounts of aid granted to SMEs benefitting, directly or indirectly, from EIP Operational Group and CLLD

projects, simple rules for cases where the aggregate amount of aid per project does not exceed a certain ceiling should be laid down.

- (59) In the case of several categories of aid, such as research, knowledge transfer and information, advisory services, farm replacement services, promotion and prevention and eradication of animal diseases and plant pests, the aid is granted to the final aid beneficiaries indirectly, in kind, in the form of subsidized services. In such cases, the exempted aid should be paid to the provider of the service or activity in question.
- (60) In accordance with Article 4, paragraph 1 of Regulation 2015/1588, it is necessary to periodically revise State aid policy. That is why the period of application of this Regulation should be limited. It is therefore appropriate to lay down transitional provisions, including the rules on an adjustment period at the end of validity of this Regulation for exempted aid schemes. Such rules should give Member States time to adapt to the possibly new regime,

HAS ADOPTED THIS REGULATION:

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# CHAPTER I

## COMMON PROVISIONS

### *Article 1* *Scope*

1. This Regulation shall apply to the following categories of aid:
  - (a) aid in favour of micro, small and medium sized enterprises (SMEs):
    - (i) active in the agricultural sector, namely primary agricultural production, the processing of agricultural products and the marketing of agricultural products, with the exception of Articles 13, 14, 15, 17 and 22, and Articles 24 to 29 which shall only apply to SMEs active in primary agricultural production;
    - (ii) active in non-agricultural activities in rural areas falling outside the scope of Article 42 of the Treaty, insofar as such aid is granted in accordance with Regulation (EU) [SPR] and is either co-financed by the European Agricultural Fund for Rural Development (EAFRD) or granted as additional national financing for such co-financed measures;
  - (b) aid for investments for the conservation of cultural and natural heritage located on agricultural holdings;
  - (c) aid in favour of making good the damage caused by natural disasters in the agricultural sector;
  - (d) aid for research and development in the agricultural and forestry sectors;
  - (e) aid in favour of forestry.
2. Where Member States deem it appropriate, they may choose to grant aid referred to in paragraph 1, points (a), (d) and (e), in compliance with Regulation (EU) No 651/2014<sup>16</sup>.
3. This Regulation shall not apply to:
  - (a) aid schemes referred to in Articles 13, 16, 33, 34 and 35, Article 36 and Articles 41 and 42, if the average annual State aid budget exceeds EUR 150 million, from six months after their entry into force.

However, the Commission may decide that this Regulation shall continue to apply to an aid scheme for longer than six months, after having assessed the relevant evaluation plan notified by the Member State to the Commission, within 20 working days following the entry into force of the scheme;

When submitting the evaluation plans referred to in the previous subparagraph, Member States shall also submit all the information necessary for the Commission to carry out an assessment of the evaluation plans and to take a decision;
  - (b) any alterations of schemes referred to in point (a) other than modifications which do not affect the compatibility of the aid scheme under this Regulation or do not significantly affect the content of the approved evaluation plan;

<sup>16</sup> Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).



- (c) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to export activity;
  - (d) aid contingent upon the use of domestic over imported goods.
4. This Regulation shall not apply to:
- (a) aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by the same Member State illegal and incompatible with the internal market, with the exception of :
    - (i) aid schemes to make good the damage caused by natural disasters in accordance with Article 31;
    - (ii) aid schemes for costs incurred by SMEs participating in community-led local development ('CLLD') or European Innovation Partnership for agricultural productivity and sustainability ('EIP') Operational Group projects in accordance with Article 51;
  - (b) ad hoc aid to an undertaking referred to in point (a).
5. This Regulation shall not apply to aid to undertakings in difficulty with the exception of aid granted:
- (a) for information actions in the agricultural sector in accordance with Article 20;
  - (b) for promotion measures in the form of publications aimed at raising awareness of agricultural products among the wider public in accordance with Article 23(2), point (b);
  - (c) to compensate for the costs of the prevention, control and eradication of animal diseases in accordance with Article 25(8) and (9);
  - (d) to cover the costs of the removal and destruction of fallen stock in accordance with Article 26(1), points (c), (d) and (e);
  - (e) to make good the damage caused by natural disasters in accordance with Article 31;
  - (f) for SMEs participating in or benefitting from CLLD projects and EIP Operational Group projects, in accordance with Article 51;
  - (g) in the following cases, provided that the undertaking became an undertaking in difficulty due to losses or damages caused by the event in question:
    - (i) to make good the losses caused by an adverse climatic event which can be assimilated to a natural disaster in accordance with Article 24;
    - (ii) to make good the damage caused by animal diseases and plant pests in accordance with Article 25(10);
    - (iii) to make good the damage caused by protected animals in accordance with Article 28;
    - (iv) for the restoration of damage to forests from fires, natural disasters, adverse climatic events which can be assimilated to a natural disaster,

other adverse climatic events, plant pests, catastrophic events and climate change related events in accordance with Article 35(5), point (d).

6. This Regulation shall not apply to aid which entails, by itself, by the conditions attached to it or by its financing method, a non-severable violation of Union law, in particular:
  - (a) aid where the grant of aid is subject to the obligation for the beneficiary to use nationally produced goods or national services;
  - (b) aid restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.
7. This Regulation shall not apply to aid in favour of agricultural products within the meaning of Annex 1 to the WTO Agreement on Agriculture, which constitutes an export subsidy as defined by that Agreement. Likewise, it shall not apply to aid in favour of such products, which constitutes export financing support provided by a government or any public body within the scope of the WTO Ministerial Decision on Export Competition of 19 December 2015<sup>17</sup>, if it does not comply with the relevant requirements of paragraph 15 of that Decision on maximum repayment term and self-financing.

## *Article 2*

### *Definitions*

For the purpose of this Regulation the following definitions shall apply:

- (1) 'active farmer' means a farmer within the meaning of Article 4, paragraph 5 of Regulation (EU) [SPR];
- (2) 'ad hoc aid' means aid not granted on the basis of an aid scheme;
- (3) 'adverse climatic event which can be assimilated to a natural disaster' means unfavourable weather conditions such as frost, storms and hail, ice, heavy or persistent rain or severe drought which destroy more than 30 % of the average of the production calculated on the basis of either of the following:
  - (a) the preceding three-year period;
  - (b) a three-year average based on the preceding five-year period, excluding the highest and the lowest entry;
- (4) 'advice' means complete advice given in the framework of one and the same contract;
- (5) 'agricultural holding' means a unit comprising of land, premises and facilities used for primary agricultural production;
- (6) 'agricultural product' means the products listed in Annex I to the Treaty, except the fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council<sup>18</sup>;
- (7) 'agricultural sector' means all undertakings active in primary agricultural production, processing and marketing of agricultural products;

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<sup>17</sup> WT/MIN(15)/45 — WT/L/980

<sup>18</sup> Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

- (8) 'agroforestry systems' means land use systems where trees are grown in combination with agriculture on the same land;
- (9) 'aid' means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;
- (10) 'aid granted in the framework of a CAP Strategic Plan' means support granted in accordance with Regulation (EU) [SPR] either as aid co-financed by the EAFRD or as additional national financing to such co-financed aid;
- (11) 'aid intensity' means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;
- (12) 'aid scheme' means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and for an indefinite amount;
- (13) 'arm's length' means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent undertakings and contain no element of collusion. Any transaction that results from an open, transparent and unconditional procedure is considered as meeting the arm's length principle;
- (14) 'biosecurity measures' means management and physical measures designed to reduce the risk of introduction, development and spread of diseases to, from and within:
  - (a) an animal population, or
  - (b) an establishment, zone, compartment, means of transport or any other facilities, premises or location.
- (15) 'breeding book' means book as provided for in Article 2, paragraph 12 of Regulation (EU) 2016/1012<sup>19</sup>;
- (16) 'CAP Strategic Plan' means CAP Strategic Plan as provided for in Article 1, paragraph 1, point (c), of Regulation (EU) [SPR];
- (17) 'capitalised works' means works, undertaken by a farmer personally or by the farmer's workers on the farm, that create an asset;
- (18) 'catastrophic event' means an unforeseen event of biotic or abiotic nature caused by human action that leads to important disturbances of forest structures, eventually causing important economic damage to the forest sectors;
- (19) 'date of granting the aid' means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime;
- (20) 'EU-27' means all 27 Member States of the Union (excluding Northern Ireland);
- (21) 'evaluation plan' means a document containing at least the following elements: the objectives of the aid scheme to be evaluated; the evaluation questions; the result indicators; the envisaged methodology to conduct the evaluation; the data collection

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<sup>19</sup> Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) No 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding ('Animal Breeding Regulation'), (OJ L 171, 29.6.2016, p. 66).

requirements; the proposed timing of the evaluation, including the date of submission of the final evaluation report; the description of the independent body conducting the evaluation or the criteria that will be used for its selection and the modalities for ensuring the publicity of the evaluation;

- (22) 'fallen stock' means animals which have been killed by euthanasia with or without a definite diagnosis or which have died, including stillborn and unborn animals, on a farm or on any premises or during transport, but which have not been slaughtered for human consumption;
- (23) 'fast growing trees' means a short rotation forest, where the minimum time before felling is set to be not less than 8 years and the maximum time before felling is set not to exceed 20 years;
- (24) 'fiscal successor scheme' means a scheme in the form of tax advantages which constitutes an amended version of a previously existing scheme in the form of tax advantages and which replaces it;
- (25) 'fixed costs arising from participation in quality scheme' means the costs incurred for entering a supported quality scheme and the annual contribution for participating in that quality scheme, including, where necessary, expenditure on checks required to verify compliance with the specifications of the quality scheme;
- (26) 'food based biofuel' means a biofuel produced from starch-rich crops, sugar crops or oil crops produced on agricultural land as a main crop excluding residues, waste or ligno-cellulosic material and intermediate crops, such as catch crops and cover crops, provided that the use of such intermediate crops does not trigger demand for additional land as defined in the Directive 2018/2001 of the European Parliament and of the Council<sup>20</sup>;
- (27) 'foodstuffs' means foodstuffs which are not agricultural products and which are listed in Annex I to Regulation (EU) No 1151/2012 of the European Parliament and of the Council<sup>21</sup>;
- (28) 'gross grant equivalent' means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charges;
- (29) 'individual aid' means:
  - (a) ad hoc aid;
  - (b) award of aid to individual beneficiaries on the basis of an aid scheme;
- (30) 'intangible assets' means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;
- (31) 'investments to comply with a Union standard' means investments made to comply with a Union standard after the expiry of the transitional period provided for in Union legislation;
- (32) 'large enterprises' means undertakings not fulfilling the criteria laid down in Annex I;
- (33) 'marketing of agricultural products' means holding or displaying with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the

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<sup>20</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

<sup>21</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers is considered as marketing of agricultural products if it takes place in separate premises reserved for that purpose;

- (34) 'mutual funds' means a scheme accredited by a Member State in accordance with its national law for affiliated farmers to insure themselves, whereby compensation payments are made to affiliated farmers who experience economic losses;
- (35) 'Natura 2000 areas' means special agriculture or forest areas as defined in Article 3, of Directive 92/43/EEC and in Article 3 of Directive 2009/147/EC;
- (36) 'natural disasters' means earthquakes, avalanches, landslides and floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin;
- (37) 'non-productive investment' means investment which does not lead to a significant increase in the value or profitability of the holding;
- (38) 'operations prior to industrial processing' means any activity carried out until the wood arrives at the sawmill, where the maximum capacity is 5 000 m<sup>3</sup> per year, with an absolute limit of 10 000 m<sup>3</sup> roundwood input for sawmilling;
- (39) 'other adverse climatic events' means unfavourable weather conditions which do not fall within the definition in point (3);
- (40) 'outermost regions' means the regions referred to in Article 349, first paragraph, of the Treaty;
- (41) 'plant pest' means Union quarantine pests, listed pursuant to Article 5, paragraph 1 of Regulation 2016/2031 of the European Parliament and of the Council<sup>22</sup>, pests subject to the measures adopted pursuant to Article 30 of that Regulation, and protected zones quarantine pests listed pursuant to Article 32, paragraph 2 of that Regulation;
- (42) 'primary agricultural production' means the production of products of the soil and of stock farming, listed in Annex I to the Treaty, without performing any further operation changing the nature of such products;
- (43) 'processing of agricultural products' means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for first sale;
- (44) 'processing of agricultural products into non-agricultural products' means any operation on an agricultural product resulting in a product which is not covered by Annex I to the Treaty;
- (45) 'producer group or organisation' means a group or organisation set up for the purpose of one of the following:
  - (a) adapting the production and output of producers who are members of such producer groups or organisations to market requirements;
  - (b) jointly placing goods on the market, including the preparation for sale, centralisation of sales and supply to bulk buyers;

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<sup>22</sup> Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p. 4–104)

- (c) establishing common rules on production information, with particular regard to harvesting and availability;
  - (d) other activities that may be carried out by producer groups or organisations, such as the development of business and marketing skills and the organisation and facilitation of innovation processes;
- (46) 'protected animal' means any animal protected either by Union or by national legislation;
  - (47) 'regional aid maps' means the list of areas designated by a Member State in line with the conditions laid down in the Guidelines on regional State aid<sup>23</sup> and approved by the Commission;
  - (48) 'repayable advance' means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;
  - (49) 'research and knowledge-dissemination organisation' means an entity (such as universities or research institutes, technology transfer agencies, innovation intermediaries, research-oriented physical or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development, or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer.
  - (50) 'smaller Aegean islands' means the smaller islands referred to in Article 1, paragraph 2 of Regulation (EU) No 229/2013 of the European Parliament and of the Council<sup>24</sup>;
  - (51) 'SME' or 'micro, small and medium-sized enterprises' means undertakings fulfilling the criteria laid down in Annex I;
  - (52) 'start of works on the project or activity' means the earlier of either the start of the activities or the construction works relating to the investment, or the first legally binding commitment to order equipment or employ services or any other commitment that makes the project or activity irreversible; buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works or activity;
  - (53) 'subsidised services' means a form of aid, where the aid is granted to the final beneficiary indirectly, in kind, and is paid to the provider of the service or activity in question;
  - (54) 'tangible assets' means assets consisting of land, buildings and plant, machinery and equipment;
  - (55) 'transaction cost' means an additional cost linked to fulfilling a commitment, but not directly attributable to its implementation or not included in the costs or income foregone that are compensated directly; and which can be calculated on a standard cost basis;

<sup>23</sup> Guidelines on regional State aid (OJ C 153, 29.4.2021, p. 1)

<sup>24</sup> Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

- (56) 'Transmissible Spongiform Encephalopathy (TSE) and Bovine Spongiform Encephalopathy (BSE) test costs' means all costs, including those for test kits and for the taking, transporting, testing, storing and destruction of samples necessary for sampling and laboratory testing in accordance with Chapter C of Annex X to Regulation (EC) No 999/2001 of the European Parliament and of the Council<sup>25</sup>;
- (57) 'trees for short rotation coppicing' means tree species of CN code 06 02 9041 to be defined by Member States that consist of woody, perennial crops, the rootstock or stools of which remain in the ground after harvesting, with new shoots emerging in the following season and with a maximum harvest cycle to be determined by the Member States;
- (58) 'undertaking in difficulty' means an undertaking in respect of which at least one of the following applies:
- (a) in the case of a limited liability company (other than an SME that has been in existence for less than three years), more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this point, "limited liability company" refers in particular to the types of company referred to in Annex I to Directive 2013/34/EU of the European Parliament and of the Council<sup>26</sup> and "share capital" includes, where relevant, any share premium;
  - (b) in the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years), more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this point, "a company where at least some members have unlimited liability for the debt of the company" refers in particular to the types of company mentioned in Annex II to Directive 2013/34/EU;
  - (c) the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors;
  - (d) the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan;
  - (e) in the case of an undertaking that is not an SME, for the past two years:
    - (i) the undertaking's book debt to equity ratio has been greater than 7.5 and
    - (ii) the undertaking's EBITDA interest coverage ratio has been below 1.0;

<sup>25</sup> Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1).

<sup>26</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

- (59) 'Union standard' means mandatory standard laid down in Union legislation setting the level which individual undertakings must achieve, in particular as regards the environment, hygiene and animal welfare; however, standards or targets set at Union level which are binding for Member States but not for individual undertakings are not deemed to be Union standards;
- (60) 'young farmer' means a farmer in accordance with Article 4, paragraph 6 of Regulation (EU) [SPR].

### *Article 3*

#### *Conditions for exemption*

Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be compatible with the internal market within the meaning of Article 107(2) or (3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that such aid fulfils all the conditions laid down in Chapter I of this Regulation, as well as the specific conditions for the relevant category of aid laid down in Chapter III of this Regulation.

### *Article 4*

#### *Notification thresholds*

1. This Regulation shall not apply to any individual aid, the gross grant equivalent of which exceeds the following thresholds:
  - (a) aid for investments in agricultural holdings linked to primary agricultural production as referred to in Article 13: EUR 500 000 per undertaking per investment project;
  - (b) aid for investments concerning the relocation of a farm building resulting in the modernisation of facilities or in an increase in production capacity as referred to in Article 15(4): EUR 500 000 per undertaking per investment project;
  - (c) aid for investments in connection with the processing of agricultural products and the marketing of agricultural products as referred to in Article 16: EUR 7,5 million per undertaking per investment project;
  - (d) aid for investments in favour of the conservation of cultural and natural heritage located on the agricultural holding as referred to in Article 30: EUR 500 000 per undertaking per investment project;
  - (e) aid for research and development in the agricultural and forestry sectors as referred to in Article 32: EUR 7,5 million per project;
  - (f) aid for afforestation and the creation of woodland as referred to in Article 33: EUR 7,5 million per establishment project;
  - (g) aid for agroforestry systems as referred to Article 34: EUR 7,5 million per agroforestry system establishment project;
  - (h) aid for investments improving the resilience and environmental value of forest ecosystems as referred to in Article 36: EUR 7,5 million per investment project;
  - (i) aid for advisory services in the forestry sector as referred to in Article 40: EUR 200 000 per undertaking and per year;



- (j) aid for investments in infrastructure related to the development, modernisation or adaptation of the forestry sector as referred to in Article 41: EUR 7,5 million per investment project;
  - (k) aid for investments in forestry technologies and in processing, in mobilising and in marketing of forestry products as referred to in Article 42: EUR 7,5 million per investment project;
  - (l) aid for investments for basic services and village renewal in rural areas as referred to in Article 46: EUR 10 million per investment project;
  - (m) aid for costs incurred by SMEs participating in CLLD projects, designated as LEADER local development under EAFRD or EIP Operational Group projects as referred to in Article 50 : EUR 2 million per undertaking, per project;
  - (n) limited amount of aid to SMEs benefitting from participating in CLLD projects, or EIP Operational Group projects as referred to in Article 51 : EUR 200 000 for CLLD projects and EUR 350 000 for EIP Operational Group projects.
2. The thresholds set out in paragraph 1 shall not be circumvented by the artificial splitting up of the aid schemes or aid projects.

#### *Article 5* *Transparency of aid*

- 1. This Regulation shall apply only to transparent aid.
- 2. Aid shall be considered to be transparent if it is possible to calculate precisely the gross grant equivalent *ex ante* without need to undertake a risk assessment ('transparent aid').
- 3. The following forms of aid shall be considered to be transparent aid:
  - (a) aid comprised in grants and interest rate subsidies;
  - (b) aid comprised in loans, where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant;
  - (c) aid comprised in guarantees where one of the following applies:
    - (i) the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission Notice;
    - (ii) before the implementation of the aid, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Notice on Guarantees, following notification of that methodology to the Commission under any State aid regulation adopted by the Commission applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation;
  - (d) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;
  - (e) aid in the form of repayable advances, if the total nominal amount of the repayable advance does not exceed the thresholds applicable under this Regulation or if, before implementation of the measure, the methodology to

calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission;

- (f) aid in the form of the sale or the lease of tangible assets below market rates where the value is established either by an independent expert evaluation prior to the transaction or by reference to a publicly available, regularly updated and generally accepted benchmark.
4. For the purpose of this Regulation, the following forms of aid shall not be considered to be transparent aid:
- (a) aid comprised in capital injections;
  - (b) aid comprised in risk finance measures.

### *Article 6* *Incentive effect*

1. This Regulation shall apply only to aid which has an incentive effect.
2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for the aid to the Member State concerned before work on the project or activity has started. The application for the aid shall contain at least the following information:
  - (a) undertaking's name and size;
  - (b) description of the project or the activity, including its start and end dates;
  - (c) location of the project or the activity;
  - (d) list of eligible costs;
  - (e) type (grant, loan, guarantee, repayable advance or other) and amount of public funding needed for the project/activity.
3. Ad hoc aid granted to large enterprises shall be considered to have an incentive effect if, in addition to ensuring that the condition laid down in paragraph 2 is fulfilled, the Member State has verified, before granting the ad hoc aid concerned, that documentation prepared by the beneficiary establishes that the aid will result in one or more of the following:
  - (a) a material increase in the scope of the project or activity due to the aid;
  - (b) a material increase in the total amount spent by the beneficiary on the project or activity due to the aid;
  - (c) a material increase in the speed of completion of the project or activity concerned;
  - (d) in the case of investment ad hoc aid, that the project or activity would not have been carried out as such in the rural area concerned or would not have been sufficiently profitable for the beneficiary in the rural area concerned in the absence of the aid.
4. By way of derogation from paragraphs 2 and 3, measures in the form of tax advantages shall be deemed to have an incentive effect if both of the following conditions are fulfilled:

- (a) the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State;
  - (b) the measure has been adopted and is in force before work on the aided project or activity has started, except in the case of fiscal successor schemes where the activity was already covered by the previous schemes in the form of tax advantages.
5. By way of derogation from paragraphs 2, 3 and 4 the following categories of aid are not required to have or shall be deemed to have an incentive effect:
- (a) aid schemes for land consolidation where the conditions laid down in Article 14 or Article 45 are fulfilled and where:
    - (i) the aid scheme establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and
    - (ii) the aid scheme has been adopted and is in force before eligible costs under Article 14 or Article 45 are incurred by the beneficiary;
  - (b) aid for knowledge exchange and information actions in the agricultural sector where the conditions laid down in Article 20 are fulfilled;
  - (c) aid for promotion measures in the form of publications aimed at raising awareness of agricultural products among the wider public where the conditions laid down in Article 23(2), point (b), are fulfilled;
  - (d) aid to compensate for losses caused by adverse climatic event which can be assimilated to a natural disaster where the conditions laid down in Article 24 are fulfilled;
  - (e) aid to compensate for the costs of the prevention, control and eradication of animal diseases and plant pests and for losses caused by those animal diseases or plant pests where the conditions laid down in Article 25 are fulfilled;
  - (f) aid to cover the costs of the removal and destruction of fallen stock where the conditions laid down in Article 26(1), points (c), (d), (e), (f) and (g) are fulfilled;
  - (g) aid to make good the damage caused by protected animals where the conditions laid down in Article 28 are fulfilled;
  - (h) aid for investments in favour of the conservation of cultural and natural heritage located on agricultural holdings where the conditions laid down in Article 30 are fulfilled;
  - (i) aid to make good the damage caused by natural disasters where the conditions laid down in Article 31 are fulfilled;
  - (j) aid for research and development in the agricultural and forestry sectors where the conditions laid down in Article 32 are fulfilled;
  - (k) aid for the restoration of damage to forests in accordance with Article 35, paragraph 2, point (d), where the conditions laid down in Article 35 are fulfilled;
  - (l) aid for knowledge exchange and information actions in the forestry sector where the conditions laid down in Article 39 are fulfilled;

- (m) aid for the participation of farmers in quality schemes for cotton and foodstuffs where the conditions laid down in Article 49 are fulfilled.
- (n) aid for SMEs participating in or benefitting from CLLD projects and EIP Operational Group projects, if the relevant conditions in Articles 50 and 51 are fulfilled.

#### *Article 7*

##### *Aid intensity and eligible costs*

1. For the purposes of calculating the aid intensity and the eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary. The amounts of eligible costs may be calculated in accordance with the simplified cost options set out in Regulation (EU) No 1303/2013 of the European Parliament and of the Council <sup>27</sup>, provided that the operation is at least partly financed through the EAFRD and that the category of costs is eligible according to the relevant exemption provision.
2. Value added tax (VAT) shall not be eligible for aid, except where it is not recoverable under national VAT legislation.
3. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.
4. Aid payable in the future, including aid payable in several instalments, shall be discounted to its value at the moment it is granted. The eligible costs shall be discounted to their value on the date of granting the aid. The interest rate to be used for discounting purposes shall be the discount rate applicable on the date of granting the aid.
5. Where aid is granted by means of tax advantages, the discounting of aid tranches shall take place on the basis of the discount rates applicable at the various times the tax advantage takes effect.
6. Where aid is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in the case of a successful outcome of the project, as defined on the basis of reasonable and prudent hypothesis, the advances shall be repaid with an interest rate at least equal to the discount rate applicable on the date of granting the aid, the maximum aid intensities laid down in Chapter III may be increased by 10 percentage points.

#### *Article 8*

##### *Cumulation*

1. In determining whether the notification thresholds provided for in Article 4 and the maximum aid intensities and maximum aid amounts laid down in Chapter III are

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<sup>27</sup> Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, (OJ L 347, 20.12.2013, p.320-469).

respected, the total amount of State aid for the aided activity or project or undertaking shall be taken into account.

2. Where Union funding centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union that is not directly or indirectly under the control of the Member State is combined with State aid, only the latter shall be considered for determining whether notification thresholds and maximum aid intensities and ceilings are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rates laid down in the applicable rules of Union law.
3. Aid with identifiable eligible costs, exempted from the notification requirement of Article 108(3) of the Treaty under this Regulation, may be cumulated with:
  - (a) any other State aid, as long as those measures concern different identifiable eligible costs;
  - (b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under this Regulation.
4. Aid without identifiable eligible costs exempted under Articles 18, 47 and 51 may be cumulated with any other State aid with identifiable eligible costs.

Aid without identifiable eligible costs may be cumulated with other State aid without identifiable eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by this or another block exemption regulation or decision adopted by the Commission.
5. State aid exempted under Sections 1, 2 and 3 of Chapter III of this Regulation shall not be cumulated with payments referred to in Articles 145(2) and 146 of Regulation (EU) [SPR] in respect of the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding those laid down in this Regulation.
6. State aid exempted under this Regulation shall 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 those laid down in Chapter III.
7. Aid for investments aimed at the restoration of agricultural production potential as referred to in Article 14(3), point (e), shall not be cumulated with aid for compensation for material damage as referred to in Articles 24, 25, 28 and 31 of this Regulation.
8. Start-up aid for producer groups and organisations in the agricultural sector as referred to in Article 18 of this Regulation shall not be cumulated with aid for setting-up of producers groups and organisations in the agricultural sector as referred to in Article 77 of Regulation (EU) [SPR].

Start-up aid for young farmers and start-up aid for agricultural activities as referred to in Article 17 of this Regulation shall not be cumulated with the support for the installation of young farmers or for rural business start-up as referred to in Article 75 of Regulation (EU) [SPR] if such cumulation would result in an aid amount exceeding those laid down in this Regulation.

*Article 9*  
*Publication and information*

1. The Member State concerned shall ensure the publication in the Commission's transparency award module<sup>28</sup> or on a comprehensive State aid website at national or regional level of:
  - (a) the summary information referred to in Article 11 or a link to it;
  - (b) the full text of each aid referred to in Article 11, including any amendments, or a link providing access to the full text;
  - (c) the information referred to in Annex III on each individual aid award exceeding the following:
    - (i) EUR 10 000 for beneficiaries active in the primary agricultural production;
    - (ii) EUR 100 000 for beneficiaries active in the sectors of the processing of agricultural products, the marketing of agricultural products, the forestry sector or activities falling outside the scope of Article 42 of the Treaty.
2. For aid schemes in the form of tax advantages, that conditions shall be considered fulfilled if Member States publish the required information on individual aid amounts in the following ranges in EUR million:
  - (a) 0,01 – 0,1 only for primary agricultural production;
  - (b) 0,1 – 0,5
  - (c) 0,5-1;
  - (d) 1 to 2;
  - (e) 2 to 5;
  - (f) 5 to 10;
  - (g) 10 to 30; and
  - (h) 30 and more.
3. The information referred to in paragraph 1 shall be organised and accessible in a standardized manner, as described in Annex III and shall allow for effective search and download functions. The information referred to in paragraph 2 shall be published within six months from the date the aid was granted or, for aid in the form of tax advantages, within one year from the date the tax declaration is due, and shall be available for at least 10 years from the date of granting the aid.
4. The full text of the aid scheme or of the ad hoc aid referred to in paragraph 1 shall include, in particular, an explicit reference to this Regulation, by citing its title and publication reference in the Official Journal of the European Union and to the specific provisions of Chapter III concerned by that act, or where applicable, to the national law which ensures that the relevant provisions of this Regulation are complied with. The aid scheme or the ad hoc aid shall be accompanied by its implementing provisions and its amendments.

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<sup>28</sup> 'State Aid Transparency Public Search', available at the following website: <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>

5. The publication obligations laid down in paragraph 1 shall not apply to aid granted to EIP Operational Group projects and CLLD projects under Article 51.
6. The Commission shall publish on its website:
  - (a) the summary information referred to in paragraph 1;
  - (b) the links to the State aid websites of all Member States referred to in paragraph 2.

## **CHAPTER II**

### **PROCEDURAL REQUIREMENTS**

#### *Article 10*

#### *Withdrawal of the benefit of the block exemption*

Where a Member State grants aid under this Regulation without fulfilling the conditions set out in Chapters I to III thereof, the Commission may, after having provided the Member State concerned with the possibility to make its views known, adopt a decision stating that all or some of the future aid measures adopted by the Member State concerned which would otherwise fulfil the requirements of this Regulation, are to be notified to the Commission in accordance with Article 108(3) of the Treaty. The aid to be notified may be limited to certain types, to aid granted in favour of certain beneficiaries or to aid adopted by certain authorities of the Member State concerned.

#### *Article 11*

#### *Reporting*

1. Member States shall transmit to the Commission, via the Commission's electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format laid down in Annex II, together with a link providing access to the full text of the aid measure, including any amendments, within 20 working days following its entry into force.
2. Member States shall transmit to the Commission in electronic form an annual report, as referred to in Chapter III of Regulation (EC) No 794/2004, on the application of this Regulation in respect of each whole year or each part of the year during which this Regulation applies.
3. The annual report shall also contain information concerning the following:
  - (a) animal diseases or plant pest as referred to in Article 25;
  - (b) meteorological information on the type, timing, relative magnitude and location of climatic events which can be assimilated to a natural disaster as referred to in Article 24 or natural disasters in the agricultural sector as referred to in Article 31.

*Article 12*  
*Monitoring*

Member States shall maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in this Regulation are fulfilled. Such records shall be kept for 10 years from the date on which the ad hoc aid was granted or the last aid was granted under an aid scheme. The Member State concerned shall provide the Commission, within a period of 20 working days or such longer period as may be fixed in the request, with all the information and supporting documentation, which the Commission considers necessary to monitor the application of this Regulation.

## **CHAPTER III**

### **CATEGORIES OF AID**

#### **SECTION 1**

#### **AID IN FAVOUR OF SMES ACTIVE IN PRIMARY AGRICULTURAL PRODUCTION, THE PROCESSING OF AGRICULTURAL PRODUCTS AND THE MARKETING OF AGRICULTURAL PRODUCTS**

*Article 13*

*Aid for investments in agricultural holdings linked to primary agricultural production*

1. Aid for investments in agricultural holdings linked to primary agricultural production shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 21 of this Article and in Chapter I.
2. The investment may be carried out by one or more beneficiaries or concern a tangible asset or intangible asset used by one or more beneficiaries.
3. The investment shall pursue at least one of the following objectives:
  - (a) improvement of the overall performance and sustainability of the agricultural holding, in particular through a reduction of production costs or the improvement and re-deployment of production;
  - (b) improvement of the natural environment, hygiene conditions or animal welfare standards;
  - (c) creation and improvement of infrastructure related to the development, adaptation and modernisation of agriculture, including access to farm land, land consolidation and improvement, the supply and saving of sustainable energy, energy efficiency, supply and saving of water;
  - (d) restoration of production potential damaged by natural disasters, adverse climatic events which can be assimilated to natural disasters, animal diseases and plant pests, protected animals and the prevention of damages caused by those events and factors; if the damage can be linked to climate change, beneficiaries shall, where appropriate, include in the restoration adaptation measures to climate change.
  - (e) meeting standards under the conditions specified in point 11 (f);



- (f) contributing to climate change mitigation and adaptation, including by reducing greenhouse gas emissions and enhancing carbon sequestration, as well as promoting sustainable energy;
  - (g) fostering sustainable development and efficient management of natural resources such as water, soil and air, including by reducing chemical dependency;
  - (h) contributing to halting and reversing biodiversity loss, enhancing ecosystem services and preserving habitats and landscapes.
4. The investment may be linked to the production at farm-level of biofuels or of energy from renewable sources, provided that such production does not exceed the average annual consumption of fuels or energy of the given farm.  
  
Where the investment is made for the production of biofuels, the production capacity of the production facilities shall be no more than the equivalent to the annual average transport fuel consumption of the agricultural holding and the produced biofuel shall not be sold on the market.
  5. Where the investment is made for the production of thermal energy and electricity from renewable sources on agricultural holdings, the production facilities shall serve only the beneficiary's own energy needs and their production capacity shall be no more than the equivalent to the combined average annual energy consumption of thermal energy and electricity on the agricultural holding, including the farm household. The selling of electricity into the grid shall only be allowed as far as the annual average self-consumption limit is respected.
  6. Where the investment is carried out by more than one beneficiary with the purpose to serve their own biofuel and energy needs, the annual average consumption shall be accumulated to the amount equivalent to the average annual consumption of all beneficiaries.
  7. The investments in renewable energy infrastructure that consume or produce energy shall comply with minimum standards for energy efficiency, where such standards exist at national level.
  8. Investments in installations, the primary purpose of which is electricity production from biomass, shall not be eligible for aid unless a minimum percentage of heat energy, to be determined by the Member States, is utilised.
  9. Member States shall establish thresholds for the maximum proportions of cereals and other starch rich crops, sugars and oil crops used for bioenergy production, including biofuels, for different types of installations. Aid to bioenergy investment projects shall be limited to bioenergy meeting the applicable sustainability criteria laid down in Union legislation.
  10. The investment shall be in conformity with Union legislation and with the national laws of the Member State concerned on environmental protection. For investment requiring an environmental impact assessment under Directive 2011/92/EU of the European Parliament and of the Council<sup>29</sup> the aid shall be subject to the condition that such assessment has been carried out and the development consent has been

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<sup>29</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

granted for the investment project concerned before the date of granting the individual aid.

***Eligible costs***

11. The aid shall cover the following eligible costs:

- (a) the costs for the construction, acquisition, including leasing, or improvement of immovable property, with land purchased only being eligible to an extent not exceeding 10 % of the 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 shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;
- (d) the acquisition, development or usage fees of computer software, cloud and similar solutions, and the acquisition of patents, licences, copyrights and trademarks;
- (e) expenses for non-productive investments linked to the specific environmental and climate-related objectives referred to in paragraph 3, points (f), (g) and (h);
- (f) in the case of irrigation, the costs for investments that fulfil the following conditions:
  - (i) a river basin management plan, in accordance with Directive 2000/60/EC of the European Parliament and of the Council<sup>30</sup>, has been notified to the Commission for the entire area in which the investment is to take place, as well as for any other areas where the environment might be affected by the investment; the measures taken under the river basin management plan in accordance with Article 11 of that Directive and of relevance to the agricultural sector shall be specified in the relevant programme of measures;
  - (ii) water metering enabling measurement of water use at the level of the supported investment is in place or must be put in place as part of the investment;
  - (iii) an investment in an improvement of an existing irrigation installation or element of irrigation infrastructure shall:
    - be assessed ex ante for offering water savings reflecting the technical parameters of the existing installation or infrastructure;
    - if the investment affects bodies of ground- or surface water whose status has been identified as less than good in the relevant river basin management plan for reasons related to water quantity, an effective reduction in water use must be achieved contributing to the achievement of good status of these water bodies, as laid down in Article 4(1) of Directive 2000/60/EC;

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<sup>30</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1)).

- (iv) the Member State shall set percentages for potential water savings and effective reduction in water use as an eligibility conditions, to ensure that there is an effective reduction of the amount of water flowing through the equipment as compared to the 2014-2020 levels and therefore to avoid a regression in the level of environmental ambition:
    - The percentage of potential water savings shall be at least 5 %, where the technical parameters of the existing installation or infrastructure already ensure a high degree of efficiency (prior to investment), and at least 25 %, where the current degree of efficiency is low and/or for investments that take place in areas where water savings are most needed to ensure the achievement of good water status;
    - The percentage of effective reduction in water use shall be at least 50 %;
    - Such water savings must reflect the needs set out in the river basin management plans emanating from the Directive 2000/60/EC.
  - (v) support may be granted to investments in the use of reclaimed water as an alternative water supply only if the provision and use of such water is compliant with Regulation No (EU) 2020/741 of the European Parliament and of the Council<sup>31</sup>.
  - (g) in the case of investments aimed at the restoration of agricultural production potential damaged by natural disasters, adverse climatic events which can be assimilated to natural disasters, animal diseases, plant pests or protected animals, the eligible costs may include the costs incurred for restoring the agricultural production potential up to the level it was at before the occurrence of those events;
  - (h) in the case of investments aimed at the prevention of damage caused by natural disasters, adverse climatic events which can be assimilated to natural disasters, animal diseases, plant pests or protected animals, the eligible costs may include the costs of specific preventive actions.
12. Costs, other than those referred to in paragraph 11 points (a) and (b) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.
- Working capital shall not be considered to be an eligible cost.
13. As regards irrigation, aid shall be paid only by Member States which ensure, in respect of the river basin district in which the investment takes place, a contribution of the different water uses to the recovery of the costs of water services by the agricultural sector consistent with Article 9, paragraph 1, first indent, of Directive 2000/60/EC having regard where appropriate, to the social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected.
14. Aid shall not be granted in respect of the following:
- (a) the purchase of payment entitlements;

<sup>31</sup> Regulation (EU) 2020/741 of the European Parliament and of the Council of 25 May 2020 on minimum requirements for water reuse (OJ L 177, 5.6.2020, p. 32).

- (b) the purchase and the planting of annual plants with exception of aid covering the costs referred to in paragraph 11, point (g);
  - (c) drainage works;
  - (d) the purchase of livestock, with exception of aid covering the costs referred to in paragraph 11, point (g).
15. With the exception of investments for the restoration of the agricultural production potential damaged by animal diseases or plant pests, the aid shall not be limited to specific agricultural products and shall therefore be available either to all sectors of the primary agricultural production or to the whole plant production sector or the whole animal production sector. However, Member States may exclude certain products because of overcapacity in the internal market or a lack of market outlets.
16. The aid referred to in paragraph 1 shall not be granted in contravention of any prohibition or restriction laid down in Regulation (EU) No 1308/2013, even where such prohibitions and restrictions only refer to the Union support provided for in that Regulation.

### ***Aid intensity***

17. The aid intensity shall not exceed 65 % of the eligible costs.
18. The aid intensity may be increased to a maximum of 80 % for the following investments:
- (a) investments linked to one or more of the specific environmental- and climate-related objectives referred to in paragraph 3, points (f), (g) and (h), or to animal welfare;
  - (b) investments by young farmers;
  - (c) investments in the outermost regions or the smaller Aegean islands.
19. The aid intensity referred to in paragraphs 17 and 18, point (c) may be increased to a maximum of 85 % for investments of small farms.
20. The aid intensity may be increased to a maximum of 100 % for the following investments:
- (a) non-productive investments linked to one or more of the specific environmental- and climate-related objectives referred to in paragraph 3 (f), (g) and (h);
  - (b) investments for the restoration of production potential referred to in point 3 (d) and investments related to prevention and risk mitigation of damage caused by natural disasters, exceptional occurrences, adverse climatic events which can be assimilated to a natural disaster, or protected animals;
21. The aid intensity for irrigation under paragraph 11, point (f) shall be limited to one or more rates not exceeding:
- (a) 80 % of the eligible costs for irrigation on-farm investments made under paragraph 11, third subparagraph of point (f);
  - (b) 100 % of the eligible costs for investments in off-farm infrastructure in agriculture to be used for irrigation;
  - (c) 65 % of the eligible costs for other irrigation on-farm investments.

*Article 14*  
*Aid for agricultural land consolidation*

Aid for agricultural land consolidation shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in Chapter I and is granted towards and limited to the legal and administrative costs, including survey costs, up to 100 % of the real costs incurred.

*Article 15*  
*Aid for investments concerning the relocation of farm buildings*

1. Aid to SMEs active in the primary agricultural production for investments concerning the relocation of farm buildings shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 5 of this Article and in Chapter I.
2. The relocation of the farm building shall pursue an objective of public interest.  
The public interest invoked to justify the granting of aid under this Article shall be specified in the relevant provisions of the Member State concerned.
3. Where the relocation of a farm building consists of the dismantling, removal and re-building of existing facilities the aid intensity shall be limited to 100% of the real costs incurred for such activities.
4. Where, in addition to the dismantling, removal and re-building of existing facilities as referred to in paragraph 3, the relocation results in a modernisation of these facilities or in an increase in production capacity the aid intensities for investments referred to in Article 13, paragraphs 17 to 21 shall apply in respect to the costs relating to the modernisation of the facilities or the increase in the production capacity.  
For the purpose of this paragraph, the pure replacement of an existing building or facilities by a new up-to-date building or facilities without fundamentally changing the production or the technology involved shall not be considered to be related to the modernisation.
5. The maximum aid intensity may reach up to 100% of the eligible costs where the relocation concerns activities close to rural settlements, with a view to improving the quality of life or increasing the environmental performance of the rural settlement.

*Article 16*  
*Aid for investments in connection with the processing and the marketing of agricultural products*

1. Aid for investments in connection with the processing and marketing of agricultural products shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 9 of this Article and in Chapter I.
2. The investment shall concern tangible or intangible assets in connection with the processing of agricultural products or the marketing of agricultural products as defined in Article 2 (43) and (33).

3. Investments in connection with the production of food based biofuels shall not be eligible for aid under this Article.
4. The investment shall be in conformity with Union legislation and with the national laws of the Member State concerned on environmental protection. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.
5. The aid shall cover the following eligible costs:
  - (a) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of the total of the 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) general costs linked to 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 shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;
  - (d) acquisition, development or usage fees of computer software, cloud and similar solutions, and acquisitions of patents, licenses, copyrights, trademarks.
6. Costs, other than those referred to in paragraph 5, points (a) and (b), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.

Working capital shall not be considered to be an eligible cost.
7. Aid shall not be granted in respect of investments to comply with Union standards in force.
8. The aid referred to in paragraph 1 shall not be granted in contravention of any prohibition or restriction laid down in Regulation (EU) No 1308/2013, even where such prohibitions and restrictions only refer to the Union support provided for in that regulation.
9. The aid intensity shall not exceed 65 %. It may be increased to a maximum of 80 % for investments in the outermost regions or the smaller Aegean islands.

#### *Article 17*

##### *Start-up aid for young farmers and start-up aid for agricultural activities*

1. Start-up aid for young farmers and start-up aid for agricultural activities shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where they fulfil the conditions laid down in paragraphs 2 to 7 of this Article and in Chapter I. It shall be granted to young farmers as defined in Article 2(60).
2. This article applies to the start-up of rural businesses in agricultural activities and to the farm household income diversification into other agricultural activities.

3. The aid provided shall only be granted to micro and small enterprises.
4. Where the aid is granted to a young farmer who is setting up a holding in the form of a legal person, the young farmer shall exercise effective and long-term control over the legal person in terms of decisions related to management, benefits and financial risks. Where several natural persons, including persons who are not young farmers, participate in the capital or management of the legal person, the young farmer shall be capable of exercising such effective and long-term control either solely or jointly together with other persons. Where a legal person is solely or jointly controlled by another legal person, those requirements shall apply to any natural person having control over that other legal person<sup>32</sup>.
5. The aid shall be conditional on the submission of a business plan to the competent authority of the Member State concerned.
6. For young farmers, where the beneficiary does not possess adequate occupational skills and competences to fall within the definition of young farmer, the beneficiary shall nonetheless be eligible for aid for young farmers, provided that the beneficiary makes a commitment to acquire those occupational skills and competences within 36 months from the date of the adoption of the decision granting the aid. That commitment must be included in the business plan.
7. Support shall be in the form of lump sums and shall be limited to EUR 100 000 per young farmer or per start up in farming or per farm household.

### *Article 18*

#### *Start-up aid for producer groups and organisations in the agricultural sector*

1. Start-up aid for producer groups and organisations shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 10 of this Article and in Chapter I.
2. Only producer groups or organisations that have been officially recognised by the competent authority of the Member State concerned on the basis of a submission of a business plan shall be eligible for aid.
3. The aid shall be granted subject to the obligation of the Member State concerned to verify that the objectives of the business plan referred to in paragraph 2 have been reached within a period of five years from the date of the official recognition of the producer group or organisation.
4. Member States shall adjust aid exempted in compliance with this Article to take account of any changes in the regulations governing the common organisation of the markets in agricultural products.
5. The agreements, decisions and other behaviour in the framework of the producer group or organisation shall comply with the competition rules as they apply by virtue of Articles 206 to 210a of Regulation (EU) No 1308/2013.

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<sup>32</sup> As regards the notion of control, Chapter II, point 1, of the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ C 95, 16.4.2008, p. 1–48) shall apply by analogy.

6. Aid shall not be granted to:
  - (a) production organisations, entities or bodies such as companies or co-operatives, the objective of which is the management of one or more agricultural holdings and which are therefore in effect single producers;
  - (b) agricultural associations, which undertake tasks such as mutual support and farm relief and farm management services, in the members' holdings without being involved in the joint adaptation of supply to the market;
  - (c) producer groups, organisations or associations the objectives of which are incompatible with Article 152(1), point (c), Article 152(3), and Article 156 of Regulation (EU) No 1308/2013.
7. The aid shall cover the following eligible costs:
  - (a) the costs of the rental of suitable premises;
  - (b) the acquisition of office equipment;
  - (c) administrative staff costs;
  - (d) overheads and legal and administrative fees;
  - (e) the acquisition of computer hardware and the acquisition or usage fees of computer software, cloud and similar solutions.

Where premises are purchased, the eligible costs for premises shall be limited to rental costs at market rates.
8. The aid shall be paid as a flat rate aid in annual instalments for the first five years from the date on which the producer group or organisation was officially recognised by the competent authority on the basis of the business plan referred to in paragraph 2.

Member States shall only pay the last instalment after having verified the correct implementation of that business plan.
9. The aid shall be limited to 10 % of the annual marketed production of the producer group or organisation.
10. The aid amount shall be limited to EUR 100 000. The aid must be degressive.

### *Article 19*

#### *Aid for the participation of producers of agricultural products in quality schemes*

1. The following categories of aid to producers of agricultural products and groups thereof shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof:
  - (a) aid for new participation in quality schemes where it fulfils the conditions laid down in paragraphs 2 to and 6 of this Article and in Chapter I;
  - (b) aid towards the costs of compulsory control measures in relation to quality schemes undertaken pursuant to Union or national legislation by or on behalf of the competent authority, where it fulfils the conditions laid down in paragraphs 2, 3, 5, 6 and 7 of this Article and in Chapter I;



- (c) aid towards the costs of market research activities, product conception and design and for preparation of applications for the recognition of quality schemes where it fulfils the conditions laid down in paragraphs 2, 6, 7 and 8 of this Article and in Chapter I.
2. The aid referred to in paragraph 1 shall be granted in respect of the following quality schemes:
- (a) quality schemes established under:
    - (i) Part II, Title II, Chapter I, Section 2 of Regulation (EU) No 1308/2013 as regards wine;
    - (ii) Regulation (EU) No 1151/2012;
    - (iii) Council Regulation (EC) No 834/2007<sup>33</sup>;
    - (iv) Regulation (EU) 2019/787 of the European Parliament and of the Council<sup>34</sup>;
    - (v) Regulation (EU) No 251/2014 of the European Parliament and of the Council<sup>35</sup>;
  - (b) quality schemes, including farm certification schemes, for agricultural products recognised by the Member States as complying with the following conditions:
    - (i) the specificity of the final product produced under such quality schemes must be derived from clear obligations to guarantee one of the following:
      - specific product characteristics;
      - specific farming or production methods;
      - the quality of the final product that go significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;
    - (ii) the quality scheme must be open to all producers;
    - (iii) the quality scheme must involve binding final product specifications and compliance with those specifications must be verified by public authorities or by an independent inspection body;
    - (iv) the quality scheme must be transparent and assure complete traceability of agricultural products;
  - (c) voluntary agricultural product certification schemes recognised by the Member State concerned as meeting the requirements laid down in the Commission

<sup>33</sup> Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

<sup>34</sup> Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008 (OJ L 130, 17.5.2019, p. 1).

<sup>35</sup> Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91, (OJ L 84, 20.3.2014, p. 14).

Communication - EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs<sup>36</sup>.

3. The aid referred to in paragraph 1, point (a), shall be granted to producers of agricultural products in the form of an annual incentive payment, the level of which shall be determined according to the level of the fixed costs arising from participation in the quality schemes.
4. The aid referred to in paragraph 1, points (a) and (b), shall not be granted towards the cost of controls undertaken by the beneficiary itself, or where Union legislation provides that the cost of controls is to be met by producers of agricultural products and groups thereof, without specifying the actual level of charges.
5. The aid referred to in paragraph 1, point (a), shall be granted for a maximum period of seven years.
6. The aid shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions.
7. The aid referred to in paragraph 1, points (b) and (c), shall not involve direct payments to the beneficiaries.  
  
It shall be paid to the body responsible for control measures, the research provider or the consultancy provider.
8. The aid referred to in paragraph 1, points (b) and (c), shall be limited to 100 % of the real costs incurred.

#### *Article 20*

##### *Aid for knowledge exchange and information actions*

1. Aid for knowledge exchange and information actions shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 8 of this Article and in Chapter I.
2. Aid shall cover vocational training and skills acquisition actions, including training courses, workshops and coaching, demonstration activities and information actions.  
  
Aid may also cover short-term farm management exchanges and farm visits.  
  
Aid for demonstration activities may cover relevant investment costs.
3. The aid shall cover the following eligible costs:
  - (a) the costs of organising the vocational training, skills acquisition actions, including training courses, workshops and coaching, demonstration activities or information actions;
  - (b) the costs for travel, accommodation and per diem expenses of the participants;
  - (c) the cost of the provision of replacement services during the absence of the participants;
  - (d) in the case of demonstration projects in relation to investments:

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<sup>36</sup> Commission Communication — EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs (OJ C 341, 16.12.2010, p. 5).

- (i) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of total eligible costs of the operation concerned;
  - (ii) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
  - (iii) general costs linked to expenditure referred to in points (i) and (ii) such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under in points (i) and (ii) is incurred;
  - (iv) the acquisition, development or usage fees of computer software, cloud and similar solutions, and the acquisitions of patents, licences, copyrights and trademarks.
4. The costs referred to in paragraph 3, point (d), shall only be eligible to the extent incurred for the demonstration project and for the duration period of the demonstration project.
- Only the depreciation costs corresponding to the life of the demonstration project, as calculated on the basis of generally accepted accounting principles, shall be considered as eligible.
5. Aid referred to in paragraph 3, points (a) and (c), shall not involve direct payments to the beneficiaries.
- Aid for the costs of the provision of replacement services referred to in paragraph 3(c) may be paid directly to the provider of the replacement services.
6. Bodies providing knowledge exchange and information actions shall have the appropriate capacities in the form of staff qualifications and regular training to carry out those tasks.
- The provision of the activities referred to in paragraph 2 may be undertaken by producer groups or other organisations, regardless of their size.
7. The aid shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions.
- Where the provision of the activities referred to in paragraph 2 is undertaken by producer groups and organisations, membership of such groups or organisations shall not be a condition for access to those activities.
- Any contribution of non-members towards the administrative costs of the producer group or organisation concerned shall be limited to the costs of providing the activities referred to in paragraph 2.
8. The aid intensity shall be limited to 100 % of the eligible costs.
- In the case of demonstration projects as referred to in paragraph 3, point (d), the maximum aid amount shall be limited to EUR 100 000 over 3 fiscal years.

#### *Article 21* *Aid for advisory services*

1. Aid for advisory services shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the

notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 9 of this Article and in Chapter I.

2. The aid shall be designed to help undertakings active in the agricultural sector and young farmers benefit from the use of advisory services.
3. The advice shall be linked to at least one specific objective in accordance with Article 6 of Regulation (EU) [SPR] and shall cover at least one of the following:
  - (a) all requirements, conditions and management commitments applying to farmers and other beneficiaries set in the CAP Strategic Plan, including requirements and standards under conditionality and conditions for interventions as well as information on financial instruments and business plans established under the CAP Strategic Plan;
  - (b) the requirements laid down by Member States to implement Directive 2000/60/EC, Directive 92/43/EEC, Directive 2009/147/EC, Directive 2008/50/EC of the European Parliament and of the Council<sup>37</sup>, Directive (EU) 2016/2284 of the European Parliament and of the Council<sup>38</sup>, Regulation (EU) 2016/2031 of the European Parliament of the Council<sup>39</sup>, Regulation (EU) 2016/429 of the European Parliament and of the Council<sup>40</sup>, Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council<sup>41</sup> and Directive 2009/128/EC of the European Parliament and of the Council<sup>42</sup>;
  - (c) farm practices preventing the development of antimicrobial resistance as referred to in the Communication "A European One Health Action Plan against Antimicrobial Resistance"<sup>43</sup>;
  - (d) risk management;
  - (e) innovation support in particular for preparing and implementing EIP Operational Group projects ;
  - (f) digital technologies in agriculture as referred to in Article 114, point (b), of Regulation No XXX [SPR];

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<sup>37</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

<sup>38</sup> Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1).

<sup>39</sup> Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p. 4).

<sup>40</sup> Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1).

<sup>41</sup> Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

<sup>42</sup> Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).

<sup>43</sup> "A European One Health Action Plan against Antimicrobial Resistance (AMR)" (COM(2017) 339 final).

- (g) sustainable management of nutrients, including, at the latest as from 2024, use of a Farm Sustainability Tool for Nutrients, as referred to in Article 13, paragraph 4 of Regulation No XXX [SPR];
  - (h) conditions of employment and employer obligations as well as occupational health and safety and social care in farming communities.
4. Advice may also cover issues, other than those referred to in paragraph 3, linked to the economic and environmental performance of the agricultural holding including competitiveness aspects. This may include advice for the development of short supply chains, organic farming and health aspects of animal husbandry.
  5. The aid shall take the form of a subsidised service.
  6. The bodies selected to provide the advisory service shall have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields in which they advise.  
  
The provision of advisory service may be undertaken by producer groups or other organisations, regardless of their size.  
  
The Member States shall ensure that the provider of the advisory service shall be impartial and have no conflict of interest.
  7. The aid shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions.  
  
Where the provision of advisory services is undertaken by producer groups and organisations, membership of such groups or organisations shall not be a condition for access to the service.  
  
Any contribution of non-members towards the administrative costs of the group or organisation concerned shall be limited to the costs of providing the advisory service.
  8. The amount of aid shall be limited to 100 % of the eligible costs up to EUR 25 000 (except those under paragraph (4)) per period of three years, for advice provided by the service provider to a single beneficiary active in the primary agricultural production
  9. The amount of aid shall be limited to 100 % of the eligible costs up to EUR 200 000 (except those under paragraph (4)) per three years, for advice provided by the service provider to a single beneficiary active in the processing and marketing of agricultural products.

## *Article 22*

### *Aid for farm replacement services*

1. Aid for farm replacement services shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 5 of this Article and in Chapter I.
2. The aid shall cover the real costs incurred for the replacement of a farmer, a natural person who is a member of the farm household, or a farm worker, during their absence from work due to illness, including illness of their child, holidays, maternity and parental leave, or mandatory military service or in case of death.

3. The total duration of the replacement shall be limited to 3 months per year per beneficiary, with the exception of replacement for maternity and parental leave and replacement during mandatory military service. For maternity and parental leave, the duration of the replacement shall be limited to 6 months in each case. For mandatory military service, the duration of the replacement shall be limited to the duration of the service.
4. The aid shall take the form of a subsidised service.  
The provision of farm replacement services may be undertaken by producer groups and organisations, regardless of their size. In such case, membership of such groups or organisations shall not be a condition for access to the service.
5. The aid intensity shall be limited to 100 % of the real costs incurred.

### *Article 23*

#### *Aid for promotion measures in favour of agricultural products*

1. Aid for promotion measures in favour of agricultural products shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 8 of this Article and in Chapter I.
2. The aid shall cover the costs for:
  - (a) the organisation of and participation in competitions, trade fairs and exhibitions;
  - (b) publications aimed at raising awareness of agricultural products among the wider public.
3. The publications referred to in paragraph 2, point (b), shall not refer to any particular undertaking, brand name or origin.  
However, the first subparagraph shall not apply to references to the origin of agricultural products covered by:
  - (a) quality schemes as referred to in Article 19, paragraph 2, point (a), provided that the reference corresponds exactly to that protected by the Union;
  - (b) quality schemes as referred to in Article 19, paragraph 2, points (b) and (c), provided that the reference is secondary in the message.
4. The aid shall cover the following eligible costs for the organisation of and participation in competitions, trade fairs and exhibitions:
  - (a) participation fees;
  - (b) travel costs, and costs for the transportation of animals and of the products that will be covered by the promotion action;
  - (c) costs of publications and websites announcing the event;
  - (d) the rent of exhibition premises and stands and the costs of their installation and dismantling;
  - (e) symbolic prizes up to a value of EUR 1000 per prize and per winner of a competition.

5. The aid shall cover the following eligible cost for publications aimed at raising awareness of agricultural products among the wider public:
    - (a) costs of publications in print- and electronic media, websites, and spots in electronic media, on radio or television, aimed at presenting factual information on beneficiaries from a given region or producing a given agricultural product, provided that the information is neutral and that all beneficiaries concerned have equal opportunities to be represented in the publication;
    - (b) costs for the dissemination of scientific knowledge and factual information on:
      - (i) quality schemes as referred to in Article 19, paragraph 2 open to agricultural products from other Member States and third countries;
      - (ii) generic agricultural products and their nutritional benefits and suggested uses for them.
  6. The aid shall be granted:
    - (a) in kind; or
    - (b) on the basis of the reimbursement of the real costs incurred by the beneficiary.

Where the aid is granted in kind the aid shall take the form of a subsidised service.

The provision of promotion measures may be undertaken by producer groups or other organisations, regardless of their size.

Aid for symbolic prizes as referred to in paragraph 4, point (e), shall only be paid to the provider of the promotion measures if the prize has been actually awarded and upon presentation of a proof of the award.
  7. Aid for promotion measures shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions.
- Where the provision of the promotion measure is undertaken by producer groups and organisations, membership of such groups or organisations shall not be a condition for participation. Any contribution of non-members towards the administration fees of the producer group or organisation concerned shall be limited to the cost of providing the promotion measures.
8. The aid intensity shall be limited to 100 % of the eligible costs.

#### *Article 24*

#### *Aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster*

1. Aid to make good the damage caused by an adverse climatic event which can be assimilated to a natural disaster shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 10 of this Article and in Chapter I.
2. Aid shall be subject to the following conditions:
  - (a) aid shall be paid when the competent authority of the Member State has formally recognised the character of the event as an adverse climatic event which can be assimilated to a natural disaster and

- (b) when there is a direct causal link between the adverse climatic event which can be assimilated to a natural disaster and the damage suffered by the undertaking.
- 3. The aid shall be paid directly to the undertaking concerned or to a producer group or organisation of which that undertaking is a member.

Where the aid is paid to a producer group or organisation, the amount of aid shall not exceed the amount of aid to which that undertaking is eligible.

- 4. Aid schemes related to an adverse climatic event which can be assimilated to a natural disaster shall be established within three years and the aid paid out four years from the date of the occurrence of the adverse climatic event which can be assimilated to a natural disaster.
- 5. The eligible costs shall be the damage incurred as a direct consequence of the adverse climatic event which can be assimilated to a natural disaster, as assessed by a public authority, by an independent expert recognised by the granting authority or by an insurance undertaking.
- 6. The damage incurred due to the adverse climatic event which can be assimilated to a natural disaster shall be calculated at the level of the individual beneficiary. The aid may relate to the following:
  - (a) the loss of income from the full or partial destruction of the agricultural production and the means of production as referred to in paragraph 7;
  - (b) material damage as referred to in paragraph 8.
- 7. The loss of income shall be calculated by subtracting:
  - (a) the result of multiplying the quantity of the agricultural products produced in the year of the adverse climatic event which can be assimilated to a natural disaster, or each following year affected by the full or partial destruction of the means of production, by the average selling price obtained during that year;from
  - (b) the result of multiplying the average annual quantity of agricultural products produced in the three-year period preceding the adverse climatic event which can be assimilated to a natural disaster, or a three-year average based on the five-year period preceding the adverse climatic event which can be assimilated to a natural disaster, excluding the highest and lowest entry by the average selling price obtained.

The loss of income may be calculated either at annual farm production level or at crop or livestock level.

The loss of income amount may be increased by other costs incurred by the beneficiary due to the adverse climatic event which can be assimilated to a natural disaster.

That loss of income amount shall be reduced by any costs not incurred because of the adverse climatic event which can be assimilated to a natural disaster.

Indexes may be used in order to calculate the agricultural production of the beneficiary provided that the calculation method used permits the determination of the real loss of the beneficiary in the given year.

- 8. The material damage to assets such as farm buildings, equipment and machinery, stocks and means of production caused by the adverse climatic event which can be



assimilated to a natural disaster shall be calculated on the basis of the repair cost or economic value of the affected asset before the adverse climatic event that can be assimilated to a natural disaster.

It shall not exceed the repair cost or the decrease in fair market value caused by the disaster, namely the difference between the asset's value immediately before and immediately after the adverse climatic event which can be assimilated to a natural disaster.

Where the loss of the beneficiary's income referred to in paragraph 7 is calculated on the basis of crop or livestock level, only the material damage related to that crop or livestock shall be taken into account.

9. Aid shall be reduced by 50 % unless it 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 the Member State or region concerned for which insurance coverage is provided.
10. The aid and any other payments received to compensate for the losses, including payments under other national or Union measures or insurance policies, shall be limited to 80 % of the eligible costs.

The aid intensity may be increased to 90 % in areas facing natural constraints.

#### *Article 25*

#### *Aid for the costs of the prevention, control and eradication of animal diseases and plant pests and aid to make good the damage caused by animal diseases or plant pests*

1. Aid to cover the costs of prevention, control and eradication of animal diseases or plant pests and aid to compensate such undertakings for losses caused by those animal diseases or plant pests shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where they fulfil the conditions laid down in paragraphs 2 to 15 of this Article and in Chapter I.
2. Aid shall be subject to the following conditions :
  - (a) it shall be paid only in relation to animal diseases or plant pests for which Union or national rules exist, whether laid down by law, regulation or administrative action; and
  - (b) it shall be part of one of the following:
    - (i) a public programme at Union, national or regional level for the prevention, control or eradication of the animal disease or the plant pest concerned;
    - (ii) emergency measures imposed by competent authority;
    - (iii) measures to eradicate or contain a plant pest implemented in accordance with Articles 17 and 28(1) and (2) of Regulation (EU) 2016/2031;
    - (iv) measures to prevent, control and eradicate animal diseases in accordance with Regulation (EU) 2016/429.

The programme and measures referred to in point (b) shall contain a description of the prevention, control or eradication measures concerned.

3. As regards animal diseases, the aid shall be granted in respect of animal diseases, referred to in Regulation (EU) 2016/429 of the European Parliament and the Council, in Annex III of Regulation (EU) 2021/690 of the European Parliament and of the Council or in the list of animal diseases, infections and infestations of the Terrestrial Code established by the World Organisation for Animal Health .
4. Aid in respect of animal diseases or plant pests other than those referred to in paragraph 3 shall be subject to the following conditions:
  - (a) the animal disease or plant pest has caused farmers serious damage, exceeding a threshold of at least 30 % of the average annual production or income of the farmer in the preceding three-year period or a three-year average based on the preceding five-year period excluding the highest and lowest entry, and
  - (b) beneficiaries have taken out insurance, if available, or pay financial contributions to mutual funds accredited in the Member State covering at least 50 % of their average annual production or production-related income and the statistically most frequent animal disease or plant pests in the Member State or region concerned for which insurance coverage or accredited mutual fund respectively is provided.
5. The aid shall not relate to measures the cost of which Union legislation requires to be borne by the beneficiary, unless the cost of such measures is entirely offset by compulsory charges on the beneficiaries.
6. Aid shall be paid directly to the undertaking concerned or to a producer group or organisation of which that undertaking is a member.

Where the aid is paid to a producer group or organisation, the amount of aid shall not exceed the amount of aid to which that undertaking is eligible.
7. Aid schemes related to an animal disease or a plant pest shall be introduced within three years and the aid paid out within four years from the date of the occurrence of the cost or damage caused by the animal disease or plant pest.
8. In the case of prevention measures, the aid shall cover the following eligible costs:
  - (a) health checks;
  - (b) analyses, including in-vitro diagnostics;
  - (c) tests and other screening measures, including TSE and BSE tests;
  - (d) the purchase, storage, administration and distribution of vaccines, medicines, substances for the treatment of animals and plant protection products;
  - (e) the slaughtering or culling of animals or the destruction of animal products and plants and the cleaning and disinfection of the holding and equipment;
  - (f) setting or improving biosecurity measures.
9. In the case of control and eradication measures, the aid shall cover the following eligible costs:
  - (a) tests and other screening measures in case of animal diseases, including TSE and BSE tests;
  - (b) the purchase, storage, administration and distribution of vaccines, medicines, substances for the treatment of animals and plant protection products;

- (c) the slaughtering or culling and destruction of animals and the destruction of products and equipment linked to them, or destruction of plants, including those that die or are destroyed as a result of vaccinations or other measures ordered by the competent authorities and the cleaning and disinfection of the holding and equipment.
10. In the case of aid to make good the damage caused by animal diseases or plant pests, compensation shall be calculated only on the basis:
- (a) the market value of the animals slaughtered or culled or that have died or the products, linked to them, or the plants destroyed:
    - (i) as a result of the animal disease or the plant pest;
    - (ii) as part of a public programme or measure as referred to in paragraph 2, point (b);
  - (b) the loss of income due to quarantine obligations, difficulties in restocking or replanting and obligatory crop-rotation imposed as part of a public programme or measure as referred to in paragraph 2, point (b);
  - (c) of the costs of replacement of equipment destroyed under the order of the Member State's competent authorities.

For the purposes of the first subparagraph, point (a), the market value shall be established on the basis of the value of the animals, products and plants immediately before any suspicion of the animal disease or plant pest arose or was confirmed.

11. The compensation calculated in accordance with paragraph 10 shall be reduced by any costs not directly incurred due to the animal disease or plant pest which would otherwise have been incurred by the beneficiary.
12. Aid to make good the damage caused by animal diseases or plant pests shall be limited to costs and damage caused by animal diseases and plant pests for which the competent authority:
- (a) has formally recognised an outbreak, in the case of an animal disease;
  - (b) has formally acknowledged their presence, in the case of plants pests.
13. Aid in relation to the eligible costs referred to in paragraph 8 and 9 shall be granted in kind and shall be paid to the provider of the prevention, control and eradication measures.

By way of derogation from the first subparagraph of this paragraph, aid in relation to the eligible costs referred to in the following provisions may be granted directly to the beneficiary on the basis of reimbursement of the real costs incurred by the beneficiary:

- (a) paragraph 8, points (d) and (e) and paragraph 9, point (b), in the case of animal diseases or plant pests;
  - (b) paragraph 8, point (e), and paragraph 9, point (c), in the case of plant pests and for the cleaning and disinfection of the holding and equipment.
14. No individual aid shall be granted where it is established that the animal disease or the infestation with the plant pest was caused deliberately or by the negligence of the beneficiary.

15. The aid and any other payments received by the beneficiary, including payments under other national or Union measures or insurance policies for the same eligible costs as referred to in paragraphs 8, 9, and 10 shall be limited to 100 % of the eligible costs.

#### *Article 26*

##### *Aid to the livestock sector and aid for fallen stock*

1. The following aid to livestock farmers shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 5 of this Article and in Chapter I.
2. The aid shall cover the costs for:
  - (a) the administrative costs of the establishment and maintenance of breeding books;
  - (b) the tests performed by or on behalf of third parties, to determine the genetic quality or yield of livestock, with the exception of controls undertaken by the owner of the livestock and routine controls of milk quality;
  - (c) the removal of fallen stock;
  - (d) the destruction of fallen stock;
  - (e) the premiums paid by farmers for insurance covering the costs of the removal and destruction of fallen stock;
  - (f) the removal and destruction of fallen stock where the aid is financed through fees or through compulsory contributions destined for the financing of the destruction of such fallen stock, provided that such fees or contributions are limited to and directly imposed on the meat sector;
  - (g) the costs of the removal and destruction of fallen stock where there is an obligation to perform TSE tests on the fallen stock concerned or in case of an outbreak of an animal disease referred to in Article 25, paragraph 3.
3. Aids referred to in paragraph 2, points (c), (d), (e), (f) and (g) shall be conditional on the existence of a consistent monitoring programme which ensures the safe disposal of all fallen stock in the Member State.

The aid towards the costs of premiums paid by farmers for insurance covering the costs of the removal and destruction of fallen stock referred to in paragraph 2, point (e), of this Article shall comply with the conditions laid down in Article 27, paragraph 2.
4. The aid shall be provided in kind and shall not involve direct payments to the beneficiaries.

In order to facilitate the administration of the aid referred to in paragraph 2, points (c), (d), (e), (f) and (g) the aid may be paid to economic operators or bodies that:

  - (a) are active downstream from the undertakings active in the livestock sector; and
  - (b) provide services linked to the removal and destruction of fallen stock.
5. The aid intensity shall be limited to:
  - (a) 70 % of the costs of genetic tests as referred to in paragraph 2, point (b);

- (b) 75 % of the costs linked to destruction referred to in paragraph 2, point (d) and (e);
- (c) 100 % of the costs linked to administrative costs, removal, destruction and insurance premium linked to removal as referred to in paragraph 2 points (a), (c), (e), (f) and (g).

#### *Article 27*

##### *Aid for the payment of insurance premiums*

1. Aid for the payment of insurance premiums shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 6 of this Article and in Chapter I.
2. The aid shall not:
  - (a) constitute a barrier to the operation of the internal market for insurance services;
  - (b) be limited to insurance provided by a single insurance company or group of companies;
  - (c) be made subject to the condition that the insurance contract be taken out with a company established in the Member State concerned.
3. The insurance shall be intended to cover losses caused by any of the following:
  - (a) natural disasters;
  - (b) an adverse climatic event which can be assimilated to a natural disaster and other adverse climatic events;
  - (c) animal diseases or plant pest or protected animals.
4. The insurance shall:
  - (a) compensate only the cost of making good the losses referred to in paragraph 3;
  - (b) not require or specify the type or quantity of future agricultural production.
5. Member States may limit the amount of the insurance premium that is eligible for aid by applying appropriate ceilings.
6. The aid intensity shall be limited to 70 % of the costs of the insurance premium.

#### *Article 28*

##### *Aid to make good the damage caused by protected animals*

1. Aid to make good the damage caused by protected animals shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 9 of this Article and in Chapter I.
2. The Member State shall establish a direct causal link between the damage suffered and the behaviour of the protected animal.
3. Aid shall be paid directly to the undertaking concerned or to a producer group or organisation of which that undertaking is a member. Where the aid is paid to a

producer group and organisation, the amount of aid shall not exceed the amount of aid to which that undertaking is eligible.

4. The aid scheme shall be established within a period of three years and the aid paid out within four years from the date of the occurrence of the damaging event.
5. The eligible costs shall be the costs of the damage incurred as a direct consequence of protected animals, as assessed by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking.

The damage may include the following:

- (a) animals killed or plants destroyed: the eligible costs are based on the market value of the animals killed or of the plants destroyed by the protected animals immediately before the event that caused the damage;
  - (b) indirect costs: veterinary costs resulting from the treatment of wounded animals and labour costs related to the search for missing animals;
  - (c) the material damage to farm equipment, machinery and farm buildings and stocks.
  - (d) For the purposes of the second subparagraph, point (c), the calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the event that caused the damage. It shall not exceed the repair cost or the decrease in fair market value caused by the event causing the damage, that is to say the difference between the property's value immediately before and immediately after the event.
6. The damage shall be calculated at the level of the individual beneficiary.  
The amount shall be reduced by any costs not incurred as a consequence of the event causing the damage, which would otherwise have been incurred by the beneficiary.
  7. A minimum effort from the beneficiaries is requested to mitigate the risk of distortions of competition and to provide an incentive for minimising the risk. This effort shall take the form of preventive measures, such as safety fences where possible, or livestock guarding dogs, which are proportionate to the risk of damage caused by protected animals in the area concerned, unless such measures are not reasonably possible.
  8. Aid under this article may be granted up to 100 % of the eligible costs.
  9. The aid and any other payments received to make good the damage, including payments under other national or Union measures or insurance policies for the damage receiving aid, shall be limited to 100 % of the eligible costs.

#### *Article 29*

##### *Aid for disadvantages related to Natura 2000*

1. Aid for disadvantages related to Natura 2000 agricultural areas shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2, 3 and 4 of this Article and in Chapter I.
2. The aid shall be granted annually and per hectare of agricultural land in order to compensate beneficiaries for additional costs and income foregone including

transaction costs, resulting from disadvantages in the agricultural areas directly impacted by the implementation of Directive 92/43/EEC and Directive 2009/147/EC.

3. Aid shall be paid only in relation to the following agricultural areas:
  - (a) Natura 2000 agricultural areas;
  - (b) features of the landscape which contribute to the implementation of Article 10 of Directive 92/43/EEC and which shall not exceed 5 % of the areas included in Natura 2000 network.
4. The aid intensity shall be limited to 100 % of the costs referred to in paragraph 2.

## **SECTION 2**

### **AID FOR INVESTMENTS IN FAVOUR OF CONSERVATION OF CULTURAL AND NATURAL HERITAGE LOCATED ON AGRICULTURAL HOLDINGS**

#### *Article 30*

*Aid for investments in favour of the conservation of cultural and natural heritage located on agricultural holdings*

1. Aid for investments aimed at the conservation of cultural and natural heritage located on the agricultural holding granted to undertakings active in the primary agricultural production shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 5 of this Article and in Chapter I.
2. The aid shall be granted for cultural and natural heritage in the form of natural landscapes and buildings which is formally recognized as cultural or natural heritage by the competent public authorities of the Member State concerned.
3. The aid shall cover the following eligible costs intended for the conservation of cultural and natural heritage:
  - (a) investment costs in tangible assets;
  - (b) capitalised works.
4. The aid intensity shall be limited to 100 % of the eligible costs.
5. Aid for capitalised works shall be limited to EUR 10 000 per year.

## **SECTION 3**

### **AID TO MAKE GOOD THE DAMAGE CAUSED BY NATURAL DISASTERS IN THE AGRICULTURAL SECTOR**

#### *Article 31*

*Aid to make good the damage caused by natural disasters in the agricultural sector*

1. Aid schemes to make good the damage caused by natural disasters shall be compatible with the internal market within the meaning of Article 107(2), point (b), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where they fulfil the conditions laid down in paragraphs 2 to 9 of this Article and in Chapter I.
2. Aid shall be subject to the following conditions:

- (a) it shall be paid only when the competent authority of the Member State has formally recognised the character of the event as a natural disaster and
  - (b) when there is a direct causal link between the natural disaster and the damage suffered by the undertaking.
- 3. The aid shall be paid directly to the undertaking concerned or to a producer group or organisation of which that undertaking is a member.  
Where the aid is paid to a producer group or organisation, the amount of aid shall not exceed the amount of aid to which that undertaking is eligible.
- 4. Aid schemes related to a natural disaster shall be established within three years and the aid paid out within four years from the date of the occurrence of the natural disaster.
- 5. The eligible costs shall be the damage incurred as a direct consequence of the natural disaster, as assessed by a public authority, by an independent expert recognised by the granting authority or by an insurance undertaking.
- 6. The damage incurred due to the natural disaster shall be calculated at the level of the individual beneficiary. That aid may relate to the following:
  - (a) the loss of income resulting from the full or partial destruction of the agricultural production and the means of production as referred to in paragraph 7;
  - (b) material damage as referred to in paragraph 8.
- 7. The loss of income shall be calculated by subtracting:
  - (a) the result of multiplying the quantity of the agricultural products produced in the year of the natural disaster, or in each following year affected by the full or partial destruction of the means of production, by the average selling price obtained during that year,  
from
  - (b) the result of multiplying the average annual quantity of agricultural products produced in the three-year period preceding the natural disaster or a three year average based on the five-year period preceding the natural disaster, excluding the highest and lowest entry by the average selling price obtained.

That amount may be increased by other costs incurred by the beneficiary directly linked to the natural disaster.

That amount shall be reduced by any costs not incurred because of the natural disaster.

Indexes may be used in order to calculate the annual agricultural production of the beneficiary provided that the calculation method used permits the determination of the real loss of the beneficiary in the given year.
- 8. The material damage to assets such as farm buildings, equipment and machinery, stocks and means of production caused by the natural disaster shall be calculated on the basis of the repair cost or economic value of the affected asset immediately before the disaster.



It shall not exceed the repair cost or the decrease in fair market value caused by the disaster, namely the difference between the asset's value immediately before and immediately after the disaster.

9. The aid and any other payments received to compensate the losses, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

## **SECTION 4**

### **AID FOR RESEARCH AND DEVELOPMENT IN THE AGRICULTURAL AND FORESTRY SECTORS**

#### *Article 32*

##### *Aid for research and development in the agricultural and forestry sectors*

1. Aid for research and development projects in the agricultural and forestry sectors and sub-sectors shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 10 of this Article and in Chapter I.
2. The aided project shall be of general interest for the sectors or sub-sectors concerned as referred to in paragraph 1.
3. Prior to the date of the start of the aided project the following information shall be published on the internet by the research and knowledge-dissemination organisation carrying out the project :
  - (a) that the aided project is to be carried out;
  - (b) the goals of the aided project;
  - (c) an approximate date for the publication of the expected results of the aided project;
  - (d) the place of publication of the expected results of the aided project on the internet;
  - (e) that the results of the aided project will be available at no cost to all undertakings active in the sectors or sub-sectors concerned.
4. The results of the aided project shall be made available on the internet from the end date of the aided project or the date on which any information concerning those results is given to members of any particular organisation, whatever comes first. The results shall remain available on the internet for a period of at least five years starting from the end date of the aided project.
5. The aid shall be granted directly to the research and knowledge-dissemination organisation.
6. The aid shall not involve payments to undertakings active in the agricultural or forestry sector based on the price of the agricultural or forestry products.
7. The eligible costs shall be the following:
  - (a) personnel costs related to researchers, technicians and other supporting staff to the extent employed on the project;
  - (b) costs of instruments and equipment to the extent and for the period used for the project; where such instruments and equipment are not used for their full life

for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible;

- (c) costs of buildings and land, to the extent and for the duration period used for the project; with regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles, are considered as eligible; for land, costs of commercial transfer or actually incurred capital costs are eligible;
  - (d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project;
  - (e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.
8. Where a research and knowledge-dissemination organisation also pursues economic activities the financing, the costs and the revenues of those economic activities must be accounted for separately.
9. Undertakings that can exert influence upon research and knowledge-dissemination organisation, in the quality of, for example, shareholders or members, may not enjoy a preferential access to its research capacities or to the results generated by it.
10. The aid intensity shall be limited to 100 % of the eligible costs.

## **SECTION 5**

### **AID IN FAVOUR OF FORESTRY**

#### *Article 33*

##### *Aid for afforestation and the creation of woodland*

1. Aid for afforestation and the creation of woodland shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 11 of this Article and in Chapter I.
2. Aid for afforestation and the creation of woodland shall cover the costs of establishment and an annual premium per hectare.
- The aid for afforestation and the creation of woodland may cover investment operations.
3. Aid for afforestation and the creation of woodland related to investment operations shall cover the following eligible costs:
- (a) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of the total eligible costs of the operation concerned with the exception of land purchase if the aid is granted in the framework of a CAP Strategic Plan;
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;

- (c) 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 shall remain eligible expenditure even where, based on the results of those studies, no expenditure under points (a) and (b) is incurred;
- (d) the acquisition, development or usage fees of computer software, cloud and similar solutions, and the acquisitions of patents, licences, copyrights, trademarks;
- (e) the costs of establishing forest management plans or equivalent instruments.

Aid which is granted in the framework of a CAP Strategic Plan and which is provided in the form of financial instruments may cover eligible costs other than those referred to in the first subparagraph, provided that the costs are fully eligible under the relevant CAP Strategic Plan and that the aid is put into effect after the approval of the relevant Strategic Plan by the Commission.

Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, working capital shall not be considered to be an eligible cost.

4. The investment operations shall be in conformity with Union legislation and with national laws of the Member State concerned on environmental protection. For investment operations requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.
5. The following costs of establishment may be eligible:
  - (a) the costs of the plantation and propagation material;
  - (b) the plantation costs and the costs directly linked to the plantation;
  - (c) the costs of other related operations such as storing and treatment of seedlings with the necessary prevention and protection materials;
  - (d) the costs for replanting necessary during the first year of afforestation.
6. The annual premium per hectare shall cover the costs for the income foregone and the costs of maintenance, including early and late cleansings.
7. Aid shall not be granted for planting the following trees:
  - (a) trees for short rotation coppicing;
  - (b) Christmas trees;
  - (c) fast growing trees for energy production;
  - (d) species non-native to the area, save where support is provided in the framework of the CAP Strategic Plan.
8. The species planted shall be adapted to the environmental and climatic conditions of the area and comply with minimum environmental requirements.
9. In areas where afforestation is difficult due to severe pedo-climatic conditions, aid may be provided for planting perennial woody species such as shrubs or bushes suitable to the local conditions.

10. Aid for large undertakings shall be conditional on the presentation of relevant information from a forest management plan or equivalent instrument in accordance with the sustainable management of forests as defined in the ***General Guidelines for the Sustainable Management of Forests in Europe***, adopted at the Second Ministerial Conference on the Protection of Forests in Europe held in Helsinki on 16-17 June 1993<sup>44</sup>.
11. The aid intensity shall be limited to 100 % of the eligible costs.

#### *Article 34*

##### *Aid for agroforestry systems*

1. Aid for agroforestry systems shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 9 of this Article and in Chapter I.
2. Aid for agroforestry systems shall cover the costs of establishment, regeneration or renovation and an annual premium per hectare.
3. Aid for agroforestry systems may cover investment operations.
4. Save where support is provided in the form of financial instruments, aid for agroforestry systems related to investment operations shall cover the following eligible costs:
  - (a) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of the total eligible costs of the operation concerned with the exception of land purchase if the aid is granted in the framework of a CAP Strategic Plan;
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
  - (c) 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 shall remain eligible expenditure even where no expenditure as referred under in points (a) and (b) is incurred;
  - (d) the acquisition, development or usage fees of computer software, cloud and similar solutions, and the acquisition of patents, licences, copyrights, trademarks;
  - (e) the costs of establishing forest management plans or equivalent instrument.

Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, working capital shall not be considered to be an eligible cost.
5. The investment operations shall be in conformity with Union legislation and with national laws of the Member State concerned on environmental protection. For investment operations requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment shall have

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<sup>44</sup> General Guidelines for the Sustainable Management of Forests in Europe ([https://www.foresteuropa.org/docs/MC/MC\\_helsinki\\_resolutionH1.pdf](https://www.foresteuropa.org/docs/MC/MC_helsinki_resolutionH1.pdf)).

been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.

The first subparagraph shall not apply to aid which is provided in the form of financial instruments.

6. The following costs for establishment, regeneration or renovation of the agroforestry system may be eligible:
  - (a) the costs for planting trees, including the costs of the plantation material, the plantation, the storing and the treatments of seedlings with the necessary prevention and protection materials;
  - (b) the costs for converting existing forests or other wooded land, including the costs for felling trees, thinning and pruning and protection against grazing animals;
  - (c) other costs directly linked to the establishment, regeneration or renovation of an agroforestry system, such as costs for feasibility studies, establishment plan, soil examination, soil preparation and protection;
  - (d) the costs of silvopastoral, namely, grazing system watering and protective facilities;
  - (e) the costs of the necessary treatment connected to the establishment, regeneration or renovation of an agroforestry system, including watering and cutting;
  - (f) the costs for replanting during the first year after the establishment, regeneration or renovation of an agroforestry system.
7. The annual premium per hectare shall cover the costs of maintenance of the agroforestry system, and shall be paid for a maximum period of five years from the date of granting the aid.

The eligible costs of maintenance may relate to the established tree belts, the weeding, pruning and thinning and protective actions and investments such as fences or individual protection tubes.
8. Member States shall determine the structure and composition of the agroforestry system, taking account of the following:
  - (a) local pedo-climatic and environmental conditions;
  - (b) forestry species; and
  - (c) the need to ensure sustainable agricultural use of the land.
9. The maximum aid intensity shall be limited to 100 % of the eligible costs.

### *Article 35*

#### *Aid for the prevention and restoration of damage to forests*

1. Aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests, catastrophic events, climate change-related events, shall be compatible with the internal market within the meaning of Article 107(2), point (b), or respectively Article 107(3), point (c), of the Treaty, and shall be

exempted from the notification requirement of Article 108(3) thereof, where it fulfils the conditions laid down in paragraphs 2 to 9 of this Article and in Chapter I.

2. The aid shall cover the following eligible costs:
  - (a) the establishment of protective infrastructure, including maintenance costs in the case of firebreaks;
  - (b) local, small scale prevention activities against fire, or other natural hazards, including the costs of the use of grazing animals, such as sheds, watering, fences, and transport of the animals;
  - (c) establishing and improving forest fire, pest and diseases monitoring facilities and communication equipment;
  - (d) restoring forest potential damaged by fires, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests, catastrophic events and climate change-related events.
3. The aid shall not be granted for agricultural related activities in areas covered by agri-environmental commitments.
4. Only forest areas belonging to the forest protection plan established by the Member State concerned shall be eligible for aid for prevention of fire.
5. In the case of the restoration of forest potential referred to in paragraph 2, point (d), the aid shall be subject to:
  - (a) the formal recognition by the competent authorities of the Member State concerned that the fire, natural disaster, adverse climatic event which can be assimilated to a natural disaster, other adverse climatic event, plant pest, catastrophic event or climate change related event has occurred and to the submission by the beneficiaries of proof of appropriate risk management tools to address the potential occurrence of the damaging event in the future,
  - (b) the formal recognition by the competent authorities of the Member State concerned that the measures adopted in accordance with Regulation (EU) 2016/2031 to combat, eradicate or contain a plant pest has occurred and
  - (c) in the case of aid under 107 (3), point (c), of the Treaty, submission by the beneficiaries of proof that such restoration will include adaptation measures to climate change.
6. In the case of aid for prevention of damage to a forest from plant pests, the risk of occurrence of the plant pest shall be supported by scientific evidence and acknowledged by a scientific public organisation.

The list of species of harmful organisms which may cause a plant pest shall be included in the aid scheme or ad hoc aid submitted by the relevant Member State.
7. The aided activities or projects shall be consistent with the forest protection plan established by the Member State.

Aid for large undertakings shall be conditional on the presentation of relevant information from a forest management plan or equivalent instrument in accordance with the sustainable management of forests as defined in the *General Guidelines for the Sustainable Management of Forests in Europe*, adopted at the Second

Ministerial Conference on the Protection of Forests in Europe held in Helsinki on 16-17 June 1993.

8. Aid shall not be granted for loss of income resulting from fire, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests, catastrophic events and climate change-related events.

9. The aid intensity shall be limited to 100 % of the eligible costs.

Aid granted for the eligible costs as referred to in paragraph 2, point (d), and any other payments received by the beneficiary, including payments under other national or Union measures or insurance policies for the same eligible costs shall be limited to 100 % of the eligible costs.

### *Article 36*

#### *Aid for investments improving the resilience and environmental value of forest ecosystems*

1. Aid for investments improving the resilience and environmental value of forest ecosystems shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 6 of this Article and in Chapter I.
2. Investments shall be aimed at the achievement of commitments for environmental aims, for provision of ecosystem services or enhancement of the public amenity value of forest and wooded land in the area concerned or the improvement of the climate change mitigation and adaptation potential of ecosystems, without excluding economic benefits in the long term. Species non-native to the area shall be excluded, save where support is provided in the framework of the CAP Strategic Plan.
3. The investment shall be in conformity with Union legislation and with national laws of the Member State concerned on environmental protection. Except where the aid is provided in the form of financial instruments, for investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.
4. Except where support is provided in the form of financial instruments, the aid shall cover the following eligible costs:
  - (a) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of the total eligible costs of the operation concerned with the exception of land purchase if the aid is granted in the framework of a CAP Strategic Plan;
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
  - (c) general costs linked to 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 shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;

- (d) the acquisition, development or usage fees of computer software, cloud and similar solutions, and the acquisitions of patents, licenses, copyrights and trademarks;
  - (e) the costs of establishing forest management plans or equivalent instrument.
5. Save where support is provided in the form of financial instruments, costs other than those referred to in paragraph 4, points (a) and (b), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.
- Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, working capital shall not be considered to be an eligible cost.
6. The aid intensity shall be limited to 100 % of the eligible costs.

### *Article 37*

#### *Aid for area-specific disadvantages resulting from certain mandatory requirements*

1. Aid related to area-specific disadvantages imposed by requirements resulting from the implementation of Directives 92/43/EEC, 2009/147/EC or Directive 2000/60/EC granted to forest holders, forest managers and their associations shall be compatible with the internal market within the meaning of Article 107(3), point (c) of the Treaty. This type of aid contributes to the achievement of one or more of the specific objectives set out in Article 6 of Regulation (EU) [SPR] and shall be exempted from the notification requirement of Article 108(3) of the Treaty where it fulfils the conditions laid down in paragraphs 2 to 5 of this Article and in Chapter I.
2. The aid shall be granted annually and per hectare of forest area in order to compensate beneficiaries for additional costs and income foregone including transaction costs, resulting from disadvantages in the forest areas referred to in paragraph 3, related to the implementation of Directive 92/43/EEC and Directive 2009/147/EC.
3. Aid shall be paid only in relation to the following forestry areas:
  - (a) Natura 2000 forest areas;
  - (b) features of the landscape which contribute to the implementation of Article 10 of Directive 92/43/EEC, which shall not exceed 5 % of the areas included in the Natura 2000 network covered by the territorial scope of the Strategic Plan concerned.
4. The aid intensity shall be limited to 100 % of the costs referred to in paragraph 2.

### *Article 38*

#### *Aid for forest-environmental and climate services and forest conservation*

1. Aid for forest-environmental and climate services and for forest conservation shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2, 3 and 4 of this Article and in Chapter I.



2. Aid shall cover only commitments which go beyond the mandatory requirements established by national forestry act or other relevant national or Union legislation. The mandatory national requirements shall be clearly identified.

Commitments shall be undertaken for a period of between five and seven years. However, where necessary and duly justified, Member States may provide for a longer period for particular types of commitments.

3. The aid shall compensate beneficiaries for all or part of the additional costs and income foregone as a result of undertaking the commitments referred to in paragraph 4.

Where necessary the aid may cover transaction costs up to a value of 20 % of the aid.

In duly justified cases, such as for operations concerning environmental conservation, the aid for commitments to renounce commercial use of trees and forests may be granted as a flat rate or as a one-off payment per unit calculated on the basis of additional costs and income foregone.

4. The aid intensity shall be limited to 100 % of the eligible costs.

#### *Article 39*

##### *Aid for knowledge exchange and information actions in the forestry sector*

1. Aid for knowledge exchange and information actions in favour of undertakings active in the forestry sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 1 to 6 of this Article and in Chapter I.

2. The aid may cover costs of any relevant action to promote innovation, training and advice, drawing up and updating plans, studies, as well as exchange and dissemination of knowledge and information which contribute to achieving one or more of the specific objectives set out in Article 6 of Regulation (EU) [SPR].

Aid may also cover short-term forest management exchanges and forest visits which shall focus, in particular, on sustainable forestry methods or technologies, the development of new business opportunities and new technologies, and on the improvement of forest resilience.

Aid for demonstration activities may cover relevant investment costs.

3. The aid shall cover the following eligible costs:
  - (a) the costs of organising and delivering the knowledge exchange or information action;
  - (b) in the case of demonstration projects related to investments:
    - (i) the construction, acquisition, including leasing, or improvement of immovable property, with land purchase only being eligible to an extent not exceeding 10 % of the other total eligible expenditure of the operation concerned with the exception of land purchase if the aid is granted in the framework of a CAP Strategic Plan;
    - (ii) the purchase or lease purchase of machinery and equipment up to the market value of the asset;

- (iii) general costs linked to expenditure referred to in points (i) and (ii), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under points (i) and (ii) is incurred;
    - (iv) acquisition, development or usage fees of computer software, cloud and similar solutions, and acquisitions of patents, licenses, copyrights and trademarks;
  - (c) the costs for travel, accommodation and per diem expenses of the participants.
- Working capital shall not be considered to be an eligible cost.
4. The aid referred to in paragraph 3, point (a), shall not involve direct payments to beneficiaries. The aid shall be paid to the provider of the knowledge exchange and information actions.
  5. Bodies providing knowledge exchange and information actions shall have the appropriate capacities in the form of staff qualifications and regular training to carry out such tasks.
  6. The aid shall be limited to 100 % of the costs.

#### *Article 40*

##### *Aid for advisory services in the forestry sector*

1. Aid for advisory services in the forestry sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 7 of this Article and in Chapter I.
2. The services concerned shall not be a continuous or periodic activity nor relate to the undertaking's operating costs. Advisory services shall cover economic, environmental and social dimensions and deliver up to date technological and scientific information developed by research and innovation.
3. The advice shall cover as a minimum issues related to the implementation of Directives 92/43/EEC, Directive 2000/60/EC, Directive 2009/147/EC, Directive 2008/50/EC, Regulation (EU) No 2016/2031, Article 55 of Regulation (EU) No 1107/2009 and Directive (EU) 2009/128/EC.
4. The aid shall take the form of subsidised service.  
  
The bodies selected to provide the advisory service shall have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields in which they advise.
5. The Member States shall ensure that the provider of the advisory service shall be impartial and have no conflict of interest.
6. Where justified and appropriate, the advice may be partly provided in group, while taking into account the situation of the individual beneficiaries of the advisory services.
7. The aid shall be limited to 100 % of the eligible costs.

#### Article 41

#### *Aid for investments in infrastructure related to the development, modernisation or adaptation of the forestry sector*

1. Aid for investments in infrastructure related to the development, modernisation or adaptation of the forestry sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 7 of this Article and in Chapter I.
2. The investment shall be in conformity with Union legislation and with national laws of the Member State concerned on environmental protection. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.

The first subparagraph shall not apply to aid which is provided in the form of financial instruments.

3. Aid for large undertakings shall be conditional on the presentation of relevant information from a forest management plan or equivalent instrument in accordance with the sustainable management of forests as defined in the ***General Guidelines for the Sustainable Management of Forests in Europe***, adopted at the Second Ministerial Conference on the Protection of Forests in Europe held in Helsinki on 16-17 June 1993.
4. The aid may cover investments which concern infrastructure related to the development, modernisation or adaptation of forests. If the aid is granted outside the framework of a CAP Strategic Plan it shall only include the following:
  - (a) access to forest land;
  - (b) land consolidation and improvement;
  - (c) supply of sustainable energy, energy efficiency, supply and saving of water ;
  - (d) the use of livestock instead of machinery.
5. The aid shall cover the following eligible costs:
  - (a) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of the other total eligible expenditure of the operation concerned, with the exception of land purchase for environmental conservation if the aid is granted in the framework of a CAP Strategic Plan;
  - (b) the purchase or lease purchase of machinery and equipment including the use of the livestock instead of machinery up to the market value of the asset;
  - (c) 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 shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;
  - (d) acquisition, development or usage fees of computer software, cloud or similar solutions and acquisitions of patents, licenses, copyrights and trademarks;

- (e) the costs of establishing forest management plans and their equivalent instruments.
- 6. Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, the following costs shall not be considered to be eligible :
  - (a) costs other than those referred to in paragraph 5, points (a) and (b), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges and
  - (b) working capital.
- 7. The aid intensity shall be limited to 65 % of the eligible costs.
 

It may be increased to a maximum of 80 % for investments in the outermost regions or the smaller Aegean islands.

It may be increased to 100 % for non-productive investments, land consolidation land improvement and investments for forest roads which are open to the public free of charge and which serve the multifunctional aspects of the forest.

#### *Article 42*

#### *Aid for investments in forestry technologies and in processing, in mobilising and in marketing of forestry products*

1. Aid for investments in forestry technologies and in processing, in mobilising and in marketing of forestry products shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 8 of this Article and in Chapter I.
2. The investment shall be in conformity with Union legislation and with national laws of the Member State concerned on environmental protection. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.
3. Aid for large undertakings shall be conditional on the presentation of relevant information from a forest management plan or equivalent instrument in accordance with the sustainable management of forests as defined in the ***General Guidelines for the Sustainable Management of Forests in Europe***, adopted at the Second Ministerial Conference on the Protection of Forests in Europe held in Helsinki on 16-17 June 1993.
4. The aid shall cover the following eligible costs:
  - (a) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of the other total eligible expenditure of the operation concerned, with the exception of land purchase for environmental conservation if the aid is granted in the framework of a CAP Strategic Plan;
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
  - (c) 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 shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;
- (d) acquisition, development or usage fees of computer software, cloud or similar solutions, and acquisitions of patents, licenses, copyrights and trademarks;
  - (e) the costs of establishing forest management plans and their equivalent.
5. Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, the following costs shall not be considered to be eligible:
    - (a) costs connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges and
    - (b) working capital.
  6. Investments related to the improvement of the economic value of forests shall be justified in relation to expected improvements to forests on one or more holdings and may include investments for soil and resource friendly harvesting machinery and practices.
  7. Investments related to the use of wood as a raw material or energy source shall be limited to all working operations prior to industrial processing.
  8. The aid intensity shall be limited to 65 % of the eligible costs. It may be increased to a maximum of 80 % for investments in the outermost regions or the smaller Aegean islands.

#### *Article 43* *Conservation of genetic resources in forestry*

1. Aid for the conservation of genetic resources in forestry, linked to forest-environmental and climate services and forest conservation shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2, 3 and 4 of this Article and in Chapter I.
2. For the purposes of this Article the following definitions shall apply:
  - (a) 'in situ conservation' means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species in their natural surroundings;
  - (b) 'on-forest holding conservation' means in situ conservation and development at forest holding level;
  - (c) 'ex situ conservation' means the conservation of genetic material for forestry outside their natural habitat;
  - (d) 'ex situ collection' means a collection of genetic material for forestry maintained outside their natural habitat.
3. The aid shall cover the costs for the following operations:
  - (a) targeted actions: actions promoting the in situ and ex situ conservation, characterisation, collection and utilisation of genetic resources in forestry, including web-based inventories of genetic resources currently conserved in

situ, including on-forest holding conservation, and of ex situ collections and databases;

- (b) concerted actions: actions promoting the exchange of information for the conservation, characterisation, collection and utilisation of genetic resources in Union forestry, among competent organisations in the Member States;
  - (c) accompanying actions: information, dissemination and advisory actions involving non-governmental organisations and other relevant stakeholders, training courses and preparation of technical reports.
4. The aid shall be limited to 100 % of the eligible costs.

#### *Article 44*

##### *Start-up aid for producer groups and organisations in the forestry sector*

1. Start-up aid to producer groups and organisations in the forestry sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 8 of this Article and in Chapter I.
2. The members of the producer group or of the producer organisation shall not be large enterprises.
3. As an alternative to providing aid to producer groups or organisations, aid up to the overall amount of aid to which the producer group or organisation would have been entitled to according to this article, may be granted directly to producers to offset their contributions to the costs of running the groups or organisations during the first five years following the formation of the group or organisation.
4. The agreements, decisions and other behaviour in the framework of the producer group or organisation shall comply with the relevant provisions of competition law, and in particular with Articles 101 and 102 of the Treaty.
5. The aid shall cover the following costs:
  - (a) costs of the rental of suitable premises, at market rates;
  - (b) costs for the acquisition of office equipment;
  - (c) administrative staff costs;
  - (d) overheads and legal and administrative fees;
  - (e) costs for acquisition of computer hardware and the acquisition or usage fees of computer software, cloud and similar solutions.
6. Aid shall not be paid in respect of costs incurred after the seventh year following the official recognition of the producer group or organisation by the competent authority on the basis of its business plan, except for collective environment and climate actions to achieve the objectives referred to in Article 6 of Regulation (EU)[SPR].
7. Where the aid is paid in annual instalments, Member States shall only pay the last instalment after having verified the correct implementation of the business plan.
8. The aid intensity shall be limited to 100 % of the eligible costs.

*Article 45*  
*Aid for forestry land consolidation*

1. Aid for forestry land consolidation shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 and 3 of this Article and in Chapter I.
2. The aid shall be granted towards and limited to the legal and administrative costs, including survey costs.
3. The aid intensity shall be limited to 100 % of the real costs incurred.

**SECTION 6**  
**AID IN FAVOUR OF SMES IN RURAL AREAS**

*Article 46*  
*Aid for basic services and village renewal in rural areas*

1. Aid for basic services and village renewal in rural areas granted in the framework of a CAP Strategic Plan shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it is put into effect after the approval of the relevant CAP Strategic Plan by the Commission and where it fulfils the conditions laid down in paragraphs 2 to 7 of this Article and in Chapter I.
2. The aid shall fulfil both of the following conditions :
  - (a) be granted in the framework of a CAP Strategic Plan in accordance with Regulation (EU) [SPR]:
    - (i) as aid co-financed by EAFRD; or
    - (ii) as additional national financing to aid co-financed by EAFRD;
  - (b) be identical to the relevant measure provided for in the CAP Strategic Plan referred to in point (a).
3. The aid shall cover:
  - (a) investments in the creation, improvement or expansion of all types of infrastructures with eligible costs limited to EUR 2 million ('small-scale infrastructure'), excluding investments in renewable energy and energy savings and broadband infrastructure;
  - (b) investments in the setting-up, improvement or expansion of local basic services for the rural population, including leisure and culture, and the related infrastructure;
  - (c) investments for public use in recreational infrastructure, tourist information and small-scale tourism infrastructure;
  - (d) investments associated with the maintenance, restoration and upgrading of the cultural and natural heritage of villages, rural landscapes and high nature value sites, including related socio-economic aspects, as well as environmental awareness actions;

- (e) investments targeting the relocation of activities and conversion of buildings or other facilities located inside or close to rural settlements, with a view to improving the quality of life or increasing the environmental performance of the settlement.
4. The aided investments are eligible where the relevant operations are implemented in accordance with plans for the development of municipalities and villages in rural areas and their basic services, where such plans exist and shall be consistent with any relevant local development strategy. Such plans are not required with regard to investments supported by financial instruments.
5. The following costs are eligible:
- (a) the costs of drawing up and updating of development and management plans relating to rural areas and their basic services, and to high nature value sites;
  - (b) the costs for the preparation of studies associated with cultural and natural heritage, rural landscapes and high nature value sites;
  - (c) investment costs for tangible and intangible assets;
  - (d) costs linked to environmental awareness actions.

The costs of capitalised works may be also eligible for aid referred to in paragraph 3, point (d).

Working capital shall not be considered to be an eligible cost. The aid shall not be granted as operating aid.

6. As regards activities referred to in paragraph 3, points (a) to (d), the aid intensity shall be limited to 100 % of the eligible costs.

In order not to exceed the maximum aid intensity, for activities referred to in paragraph 3, points (b), (c) and (d), the net revenues shall be deducted from the eligible costs ex ante on the basis of reasonable projections or through a clawback mechanism. Alternatively, for aid not exceeding EUR 1 million, the maximum aid intensity may be set at 80 % of eligible costs.

7. As regards the investments referred to in paragraph 3, point (e), the aid intensity shall not exceed 100 % of the real costs incurred for such activities where the relocation of the activities or the conversion of buildings or other facilities consists of the dismantling, removal and re-building of existing facilities.

Where the relocation of the activities or the conversion of buildings or other facilities results in a modernisation of those facilities or in an increase in production capacity, in addition to the dismantling, removal and re-building of existing facilities as referred to in the first subparagraph, the aid intensities shall not exceed the maximum aid intensity established in the regional aid map which is in force at the time the aid is granted in the area concerned in respect of the costs relating to the modernisation of the facilities or the increase of production capacity. The pure replacement of an existing building or facilities by a new up-to date building or facilities without fundamentally changing the production or the technology involved is not considered to be related to the modernisation.



#### *Article 47*

##### *Business start-up aid for non-agricultural activities in rural areas*

1. Business start-up aid for non-agricultural activities in rural areas shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 8 of this Article and in Chapter I.
2. The aid shall fulfil both of the following conditions:
  - (a) be granted in the framework of a CAP Strategic Plan in accordance with Regulation (EU) [SPR]:
    - (i) as aid co-financed by EAFRD; or
    - (ii) as additional national financing to the aid referred to in point (i);
  - (b) be identical to the relevant measure provided for in the CAP Strategic Plan referred to in point (a).
3. Aid shall be granted to the following categories of beneficiaries :
  - (a) farmers or members of a farm household in rural areas diversifying into non-agricultural activities;
  - (b) micro and small enterprises in rural areas;
  - (c) natural persons in rural areas.
4. Where the member of a farm household as referred to in paragraph 4, point (a), is a legal person or a group of legal persons it shall exercise an agricultural activity on the farm at the time the application for the aid is submitted.
5. The aid shall be conditional on the submission of a business plan to the competent authority of the Member State concerned. The implementation of that business plan shall start within nine months from the date of the decision granting the aid.

The business plan shall describe the following:

  - (a) the initial economic situation of the beneficiary;
  - (b) milestones and targets for the development of the new activities of the beneficiary;
  - (c) details of the actions required for the development of the activities of the beneficiary, such as details of investments, training, advice.

The business plan shall have a maximum duration of five years.
6. The aid shall be paid in at least two instalments.

The instalments may be degressive.
7. The payment of the last instalment shall be conditional upon the correct implementation of the business plan referred to in paragraph 5. Member States shall determine the amount of aid taking into account the socio-economic situation of the area covered by the CAP Strategic Plan.
8. The aid shall be limited to EUR 70 000 per beneficiary.

#### Article 48

##### *Aid for new participation of farmers in quality schemes for cotton and foodstuffs*

1. Aid for new participation, or participation in the five preceding years, of farmers and groups of farmers that participate in quality schemes for cotton and foodstuffs shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 7 of this Article and in Chapter I of this Regulation.
2. The aid shall fulfil both of the following conditions:
  - (a) be granted in the framework of a CAP Strategic Plan in accordance with Regulation (EU) [SPR]:
    - (i) as aid co-financed by EAFRD; or
    - (ii) as additional national financing to the aid referred to in point (i);
  - (b) be identical to the relevant intervention provided for in the CAP Strategic Plan referred to in point (a).
3. Aid shall be granted for new participation in one of the following types of quality schemes:
  - (a) quality schemes for cotton and foodstuffs established under Regulation (EU) No 1151/2012;
  - (b) quality schemes for cotton and foodstuffs, including certification schemes, recognised by the Member States as complying with the following criteria:
    - (i) the specificity of the final product produced under such quality schemes is derived from clear obligations to guarantee one of the following:
      - specific product characteristics;
      - specific farming or production methods;
      - a quality of the final product that goes significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;
    - (ii) the scheme is open to all producers;
    - (iii) the scheme involves binding final product specifications and compliance with those specifications is verified by public authorities or by an independent inspection body;
    - (iv) the scheme is transparent and assures complete traceability of agricultural products;
  - (c) voluntary foodstuff certification schemes recognised by the Member State concerned as meeting the requirements laid down in the Commission Communication — EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs.
4. The aid shall be granted in the form of an annual incentive payment, the level of which shall be determined according to the level of the fixed costs arising from participation in quality schemes.
5. The aid shall be granted for a maximum period of five years.

6. If the initial participation in the quality scheme started before the application for support, the maximum period of five years shall be reduced by the number of years which have elapsed between that initial participation and the time of the application for support.
7. The aid shall be limited to EUR 3 000 per beneficiary per year.

#### *Article 49*

#### *Aid for information and promotion activities concerning cotton and foodstuffs covered by a quality scheme*

1. Aid for information and promotion activities concerning cotton and foodstuffs covered by a quality scheme shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 10 of this Article and in Chapter I.
2. The aid shall fulfil both of the following conditions:
  - (a) be granted in the framework of a CAP Strategic Plan in accordance with Regulation (EU) [SPR]:
    - (i) as aid co-financed by EAFRD; or
    - (ii) as additional national financing to the aid referred to in point (i);
  - (b) be identical to the relevant measure provided for in the CAP Strategic Plan referred to in point (a).
3. The aid shall be granted to groups of producers implementing the information and promotion activities.
4. Only information and promotion activities that are implemented in the internal market shall be eligible for aid.
5. The aid shall be granted for information and promotion activities concerning cotton and foodstuffs which are covered by a quality scheme and for which aid is granted in accordance with Article 48.
6. The eligible costs shall be the costs for actions having the following characteristics:
  - (a) designed to induce consumers to buy the foodstuffs or the cotton covered by a quality scheme as referred to in Article 48(4) of this Regulation;
  - (b) drawing attention to specific features or advantages of the foodstuff or the cotton, notably to the quality, specific production method, high animal welfare standards and respect for the environment linked to the quality scheme concerned.
7. The actions referred to in paragraph 6 shall not incite consumers to buy a foodstuff or cotton due to their particular origin, except for those covered by the quality schemes referred to in Title II of Regulation (EU) No 1151/2012.
8. The origin of the foodstuff or cotton may be indicated, provided that the mention of the origin is subordinate to the main message.
9. Information and promotion activities related to particular undertakings or commercial brands shall not be eligible for aid.
10. The aid intensity shall be limited to 70 % of the eligible costs.

#### *Article 50*

##### *Aid for costs incurred by SMEs participating in CLLD or EIP Operational Group projects*

1. Aid for costs incurred by SMEs participating in CLLD projects, designated as LEADER local development under the European Agricultural Fund for Rural Development, covered by Regulation (EU) 2021/1060, as well as for EIP Operational Group projects covered by Article 77 of Regulation (EU) [SPR], shall be compatible with the internal market within the meaning of Article 107(3), point (c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in paragraphs 2 and 3 this Article and in Chapter I are fulfilled.
2. The following costs shall be eligible for CLLD and EIP Operational Group projects:
  - (a) the costs of preparatory support, capacity building, training and networking with a view of preparing and implementing a CLLD strategy or an EIP Operational Group project;
  - (b) implementation of approved operations;
  - (c) preparation and implementation of the group's cooperation activities;
  - (d) running costs linked to the management of the implementation of the CLLD strategy or of the EIP Operational Group project;
  - (e) animation of the EIP community or the CLLD strategy in order to facilitate exchange between stakeholders to provide information and to promote the strategy and the projects, and to support potential beneficiaries with a view of developing operations and preparing applications.
3. The aid intensity shall not exceed the maximum support rates provided for each type of operation in Regulation (EU) [SPR].

#### *Article 51*

##### *Limited amounts of aid to SMEs benefitting from CLLD or EIP Operational Group projects*

1. Aid to undertakings participating in, or benefitting from, CLLD or EIP Operational Group projects, as referred to in Article 50(1), shall be compatible with the internal market within the meaning of Article 107(3), point (c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
2. The total amount of aid under this Article granted per project shall not exceed EUR 200 000 for CLLD projects, and EUR 350 000 for EIP Operational Group projects.

## **CHAPTER IV TRANSITIONAL AND FINAL PROVISIONS**

#### *Article 52*

##### *Repeal*

1. Regulation (EC) No 702/2014 is repealed.

2. However, the rules set out in that Regulation shall continue to apply until 31 December 2023 to aid granted pursuant to Council Regulation (EU) 1305/2013<sup>45</sup>.

### *Article 53*

#### *Transitional provisions*

1. This Regulation shall apply to individual aid granted before the date of entry into force of this Regulation, if that individual aid fulfils all the conditions laid down in this Regulation, with the exception of Article 9.
2. Any aid not exempted from the notification requirement of Article 108(3) of the Treaty shall be assessed by the Commission in accordance with the 2023 Guidelines and the other relevant frameworks, guidelines, communications and notices.
3. Any individual aid granted before 1 January 2023 by virtue of any regulation adopted pursuant to Article 1 of Regulation (EU) 2015/1588 in force at the time the aid was granted shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty.
4. At the end of the period of validity of this Regulation, any aid schemes exempted under this Regulation shall remain exempted during an adjustment period of six months.

By way of derogation from the first subparagraph, at the end of the period of validity of this Regulation aid schemes falling within the scope of Regulation (EU) [SPR] and either co-financed by EAFRD or by additional national financing for such co-financed measures shall remain exempted for the duration of the programming period in accordance with Regulation (EU) [SPR].

### *Article 54*

This Regulation shall enter into force on the [XX] day following that of its publication in the *Official Journal of the European Union*.

It shall apply until 31 December 2027.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*  
*The President*  
*Ursula von der Leyen*

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<sup>45</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, (OJ L 347 of 20.12.2013, p. 487).

## ANNEX I SME DEFINITION

### *Article 1 Enterprise*

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

### *Article 2 Staff headcount and financial thresholds determining enterprise categories*

1. The category of micro, small and medium-sized enterprises ('SMEs') is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

### *Article 3 Types of enterprise taken into consideration in calculating staff numbers and financial amounts*

1. An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.
2. 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

- (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000;
- (b) universities or non-profit research centres;
- (c) institutional investors, including regional development funds;

- (d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.
3. 'Linked enterprises' are enterprises which have any of the following relationships with each other:
- (a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
  - (b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
  - (c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
  - (d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

4. Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.
5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

#### *Article 4*

##### *Data used for the staff headcount and the financial amounts and reference period*

1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis.

They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.

2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.
3. In the case of newly established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

#### *Article 5* *Staff headcount*

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- (c) owner-managers;
- (d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

#### *Article 6* *Establishing the data of an enterprise*

1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.
2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in



question, where the data were not already included through consolidation in the accounts.

3. For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.

4. Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

**ANNEX II**  
**INFORMATION REGARDING STATE AID EXEMPT UNDER THE CONDITIONS**  
**OF THIS REGULATION**  
**AS PROVIDED FOR IN ARTICLE 9, PARAGRAPH 1**  
**(TEXT WITH EEA RELEVANCE <sup>46</sup>)**

**PART I**

<b>Aid reference</b>	<i>(to be completed by the Commission)</i>	
<b>Member State</b>	.....	
<b>Member State reference number</b>	.....	
<b>Region</b>	<b>Name of the Region (NUTS <sup>47</sup>)</b>	<b>Regional aid status <sup>48</sup></b>
<b>Granting authority</b>	<b>Name</b>	.....
	<b>Postal address Web address</b>	.....
<b>Title of the aid measure</b>	.....	
<b>National legal basis (Reference to the relevant national official publication)</b>	.....	
<b>Web link to the full text of the aid measure</b>	.....	
<b>Type of measure</b>	<input type="checkbox"/> <b>Scheme</b>	<b>Name of the beneficiary and the group<sup>49</sup> it belongs to</b>
	<input type="checkbox"/> <b>Ad hoc aid</b>	
<b>Amendment of an existing aid scheme or ad hoc aid</b>		<b>Commission aid reference</b>
	<input type="checkbox"/> <b>Prolongation</b>	.....
	<input type="checkbox"/> <b>Modification</b>	.....
<b>Duration<sup>50</sup></b>	<input type="checkbox"/> <b>Scheme</b>	dd/mm/yyyy to dd/mm/yyyy

<sup>46</sup> Applicable only to aid concerning the forestry sector and products not listed in Annex I to the Treaty.

<sup>47</sup> NUTS - Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.

<sup>48</sup> Article 107(3)(a) of the Treaty on the Functioning of the European Union (status 'A'), Article 107(3)(c) of the Treaty on the Functioning of the European Union (status 'C'), unassisted areas namely areas that are not eligible for regional aid (status 'N').

<sup>49</sup> An undertaking for the purposes of rules on competition laid down in the Treaty on the Functioning of the European Union and for the purposes of this Regulation is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed. The Court of Justice has ruled that entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as one undertaking.

<sup>50</sup> Period during which the granting authority can commit itself to grant the aid.

Date of granting	<input type="checkbox"/> <i>Ad hoc</i> aid	dd/mm/yyyy	
Economic sector(s) concerned	Please specify at NACE group level <sup>51</sup>	.....	
Type of beneficiary	<input type="checkbox"/> SME		
	<input type="checkbox"/> Large enterprises		
Budget			
	<input type="checkbox"/> Scheme: Overall amount <sup>52</sup>	National currency ... (full amounts) .....	
	<input type="checkbox"/> <i>Ad hoc</i> aid: Overall amount <sup>53</sup>	National currency ... (full amounts) .....	
	For guarantees <sup>54</sup>	National currency ... (full amounts) .....	
Aid instrument	<input type="checkbox"/> Direct grant/ Interest rate subsidy		
	<input type="checkbox"/> Subsidised services		
	<input type="checkbox"/> Loan/ Repayable advances		
	<input type="checkbox"/> Guarantee (where appropriate with a reference to the Commission decision <sup>55</sup> )		
	<input type="checkbox"/> Tax advantage or tax exemption		
	<input type="checkbox"/> Other (please specify) .....		
	Indicate to which broad category below it would fit best in terms of its effect/function: <input type="checkbox"/> Grant <input type="checkbox"/> Loan <input type="checkbox"/> Guarantee <input type="checkbox"/> Tax advantage		
If co-financed by EU fund(s)	Name of EU fund(s):	Amount of funding (as per EU fund)	National currency . (full amounts)
Other information			

<sup>51</sup> NACE Rev. 2 - Statistical classification of Economic Activities in the European Union. Typically, the sector shall be specified at group level.

<sup>52</sup> In the case of an aid scheme: indicate the overall amount of the budget planned under the scheme or the estimated tax loss for its whole duration for all aid instruments contained in the scheme.

<sup>53</sup> In case of an *ad hoc* aid award: Indicate the overall aid amount or tax loss.

<sup>54</sup> For guarantees, indicate the maximum amount of loans guaranteed.

<sup>55</sup> Where appropriate, reference to the Commission decision approving the methodology to calculate the gross grant equivalent, in accordance with Article 5(2)(c)(ii) of this Regulation.

## PART II

Please indicate under which provision of this Regulation the aid is implemented

Primary objectives <i>(Multiple objectives are possible; in this case indicate all objectives)</i>	Maximum aid intensity in %	Maximum aid amount in national currency (in full amounts)
<input type="checkbox"/> Aid for investments in agricultural holding linked to primary agricultural production (Article 13)		
<input type="checkbox"/> Aid for agricultural land consolidation (Article 14)		
<input type="checkbox"/> Aid for investments concerning the relocation of farm buildings (Article 15)		
<input type="checkbox"/> Aid for investments in connection with the processing of agricultural products and marketing of agricultural products (Article 16)		
<input type="checkbox"/> Start-up aid for young farmers and the development of small farms (Article 17)		
<input type="checkbox"/> Start-up aid for producer groups and organisations in the agricultural sector (Article 18)		
<input type="checkbox"/> Aid for participation of producers of agricultural products in quality schemes (Article 19)		
<input type="checkbox"/> Aid for knowledge exchange and information actions in the agricultural sector (Article 20)		
<input type="checkbox"/> Aid for advisory services in the agricultural sector (Article 21)		
<input type="checkbox"/> Aid for farm replacement services (Article 22)		
<input type="checkbox"/> Aid for the promotion measures in favour of agricultural products (Article 23)		
<input type="checkbox"/> Aid to compensate for damage caused by adverse climatic events which can be assimilated to a natural disaster (Article 24)		
<input type="checkbox"/> Aid for the costs of the prevention, control and eradication of animal diseases and plant pests and aid to compensate for the damage caused by animal diseases and plant pests (Article 25)		
<input type="checkbox"/> Aid to the livestock sector (Article 26(1)(a) or (b))		
<input type="checkbox"/> Aid for fallen stock (Article 26(1)(c), (d), (e), (f) or (g))		
<input type="checkbox"/> Aid for the payment of insurance premiums (Article 27)		

Primary objectives <i>(Multiple objectives are possible; in this case indicate all objectives)</i>	Maximum aid intensity in %	Maximum aid amount in national currency (in full amounts)
<input type="checkbox"/> Aid to compensate for the damage caused by protected animals (Article 28)		
<input type="checkbox"/> Aid for disadvantages related to Natura 2000 (Article 29)		
<input type="checkbox"/> Aid for investments in favour of conservation of cultural and natural heritage located on the agricultural holding (Article 30)		
<input type="checkbox"/> Aid to compensate for the damage caused by natural disaster in the agricultural sector (Article 31)		
Type of natural disaster	<input type="checkbox"/> earthquake <input type="checkbox"/> avalanche <input type="checkbox"/> landslide <input type="checkbox"/> flood <input type="checkbox"/> tornado <input type="checkbox"/> hurricane <input type="checkbox"/> volcanic eruption <input type="checkbox"/> wild fire	
Date of occurrence of the natural disaster	From dd/mm/yyyy to dd/mm/yyyy	
<input type="checkbox"/> Aid for research and development in the agricultural sector (Article 32)		
<input type="checkbox"/> Aid for research and development in the forestry sector (Article 32)		
<input type="checkbox"/> Aid for afforestation and creation of woodland (Article 33)		
<input type="checkbox"/> Aid for agroforestry systems (Article 34)		
<input type="checkbox"/> Aid for prevention and restoration of damage to forests (Article 35)		
<input type="checkbox"/> Aid for investments improving the resilience and environmental value of forest ecosystems (Article 36)		
<input type="checkbox"/> Aid for area-specific disadvantages resulting from certain mandatory requirements (Article 37)		
<input type="checkbox"/> Aid for forest- environmental and climate services and forest conservation (Article 38)		

Primary objectives (Multiple objectives are possible; in this case indicate all objectives)	Maximum aid intensity in %	Maximum aid amount in national currency (in full amounts)
<input type="checkbox"/> Aid for knowledge transfer and information actions in the forestry sector (Article 39)		
<input type="checkbox"/> Aid for advisory services in the forestry sector (Article 40)		
<input type="checkbox"/> Aid for investments in infrastructure related to development, modernisation or adaptation of forestry sector (Article 41)		
<input type="checkbox"/> Aid for investments in forestry technologies and in processing, mobilising and marketing of forestry products (Article 42)		
<input type="checkbox"/> Aid for conservation of genetic resources in forestry (Article 43)		
<input type="checkbox"/> Start-up aid for producer groups and organisations in the forestry sector (Article 44)		
<input type="checkbox"/> Aid for forestry land consolidation (Article 45)		
<input type="checkbox"/> Aid for basic services and village renewal in rural areas (Article 46)		
<input type="checkbox"/> Business start-up aid for non-agricultural activities in rural areas (Article 47)		
<input type="checkbox"/> Aid for new participation of active farmers in quality schemes for cotton or foodstuff (Article 48)		
<input type="checkbox"/> Aid for information and promotion activities concerning cotton and foodstuffs covered by a quality scheme (Article 49)		
<input type="checkbox"/> Aid for costs incurred by SMEs participating in community-led local development (CLLD) or EIP Operational Group operations (Article 50)		
<input type="checkbox"/> Limited amounts of aid to SMEs participating in community-led local development (CLLD) or EIP Operational Group operations (Article 51)		

**ANNEX III**  
**PROVISIONS FOR THE PUBLICATION OF INFORMATION AS LAID DOWN IN ARTICLE 9,**  
**PARAGRAPH 2**

Member States shall organise their comprehensive State aid websites, on which the information referred to in Article 9, paragraph 2 is to be published, in such a way as to allow easy access to that information. Information shall be published in a spreadsheet data format, which allows data to be searched, extracted and easily published on the Internet, for instance in CSV or XML format. Access to the State aid website shall be allowed to any interested party without restrictions. No prior user registration shall be required to access the State aid website.

The following information on individual awards as laid down in Article 9, paragraph 2, point (c) shall be published:

- (a) Reference of the identification number of the aid <sup>56</sup>;
- (b) Beneficiary's identifier;
- (c) Type of enterprise (SME/large) at the date of granting the aid;
- (d) Region in which the beneficiary is located, at NUTS level II<sup>57</sup>;
- (e) Sector of activity at NACE group level<sup>58</sup>;
- (f) Aid instrument, expressed as full amount in national currency<sup>59</sup>;
- (g) Aid instrument<sup>60</sup> (grant/interest rate subsidy, loan/repayable advances/reimbursable grant, guarantee, tax advantage or tax exemption, risk finance, other (please specify));
- (h) Date of granting the aid;
- (i) Objective of the aid<sup>61</sup>;
- (j) Granting authority.

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<sup>56</sup> As provided by the Commission under the procedure as referred to in Article 9, paragraph 1 of this Regulation

<sup>57</sup> NUTS - Nomenclature of Territorial Units for Statistics. Typically, the region shall be specified at level 2.

<sup>58</sup> Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ No L 293, 24.10.1990, p. 1) as amended by Commission Regulation (EEC) No 761/93 of 24 March 1993 (OJ No L 83, 3.4.1993, p. 1, and corrigendum (OJ No L 159, 11.7.1995, p. 31).

<sup>59</sup> Gross grant equivalent

<sup>60</sup> If the aid is granted through multiple aid instruments, the aid amount shall be provided by an aid instrument

<sup>61</sup> If the aid has multiple objectives, the aid amount shall be provided by an objective.