

Ireland's position on the Draft targeted amendments to the agricultural *de minimis* Regulation (EU) No. 1408/2013

Executive Summary

The Commission has launched a public consultation of interested parties on a draft targeted amendment to the rules on small amounts of aid to the agricultural sector under *de minimis*. The amendments proposed include:

- Change on national threshold from €98.4m to €170.89m
- Change of individual threshold from €20k to €37k
- Change in language from "3 fiscal years" to "3 years" regarding period of time over which individual and national thresholds apply.
- Introduction of mandatory sectoral cap of 50%
- Introduction on central register at either national or EU level

Irish Department of Agriculture, Food and the Marine (DAFM) Position

1. The increase in the individual threshold is welcome and likewise, the proportional increase in the national threshold is also welcome.
2. The introduction of a mandatory sector cap of 50% is of considerable concern as this could have a significant impact on the amount of *de minimis* aid currently being given to the beef sector. DAFM supports the Czech Republic proposal to abolish or at least increase the cap to 70%.
3. Given that Fisheries and Agriculture operate very closely together, and that a number of MS are planning to operate both Agri and Fisheries *De Minimis* Regulations from one register, DAFM agrees with other Member States that both Regulations should be fully aligned.
4. Further clarity is sought on the mandatory central register.

Following the public consultation, the Cion intends that the amended Regulation will be adopted by the end of the year.

Detailed information

In the context of a revision of Regulation (EU) No 1408/2013 (the 'agricultural *de minimis* Regulation'), the Commission (Cion) has invited Member States to provide their views on the proposed amendments. A first advisory meeting between Member States and the Cion was held on 10 July with formal written positions due to be submitted by Sunday 21 July. Ireland's submission is being coordinated by DETE.

Context

“De minimis aid” is support that is small enough to be deemed not to distort competition or to affect trade between Member States. As such, de minimis aid is not required to be notified as State aid because of the limited amount. Regulation 1408/2013 applies to de minimis aid granted to undertakings active in the primary production of agricultural products.

On 18 April 2024, as part of the Crisis response, the European Council encouraged the Cion to pursue the work on the possibility to increase the ceiling on *de minimis* aid for agriculture.

The current de minimis rules are set to expire on 31 December 2027. The Cion proposal is attached.

Changes Proposed

The amendment addresses two main aspects: (i) the *de minimis* ceilings and (ii) the transparency requirements.

1) The Ceilings

Individual de minimis ceiling

Since 2019, the individual de minimis ceiling is set at €20,000 per undertaking over any period of 3 fiscal years. Member States can opt for a higher ceiling, set at €25,000 per undertaking over the same period, provided that they set up a central register of de minimis aid and operate a sectoral cap. Note: While Ireland maintains an internal database this does not contain all the elements of a central register. Ireland operates a limit of €20,000.

Under the new proposal, the ceiling will increase to €37,000 per undertaking over 3 years (rolling basis). This is calculated based on the actual inflation since the last revision of the Regulation in 2019, as well as, forward looking, the projected inflation based on an European Commission forecast where available (years 2024 and 2025) as well as the ECB inflation target for the remaining years until the proposed end of validity of the Regulation (31.12.2032).

At the 1st Advisory Meeting, a number of Member States sought further increases in the both the ceiling and the national cap. The Cion, in response, stressed that discretion on setting the ceilings is limited by jurisprudence of the Union Courts: the Cion can increase the ceilings only to the extent where there is no risk of distorting competition and trade.

National cap

The proposed revised national cap is calculated as 1.5% of the average of the value of the 3 highest years of agricultural production in the period 2012-2023. For Ireland, this will result in an increase from €98.4m to €170.89m.

Period taken into account for assessing compliance with the de minimis ceiling

The Commission proposes to align the calculation with the recently amended General De Minimis Regulation (2023/2832) and to calculate the cumulative

amount over three years, instead of the current calculation over three fiscal years.

50% Sectoral Cap

Under the existing Regulation, provision is made for two separate individual/national thresholds for Member States with or without a national register, and through which it is possible to avoid the 50% sectoral cap. However, with the introduction of the mandatory register, the mandatory sector cap of 50% applies to all.

DAFM Position:

The increase in the individual threshold is welcome and likewise, the proportional increase in the national threshold is also welcome.

The introduction of a mandatory sector cap of 50% is of considerable concern as this could have a significant impact of the amount of *de minimis* aid currently being given to the beef sector. Ireland's farm structure is predominantly based on livestock production with some 56% of farms engaged in cattle production. Due to this structural issue, a 50% sectoral cap could have an unduly negative impact.

At the 1st Advisory Meeting, Malta and the Czech Republic both echoed concerns regarding the mandatory sectoral cap. CZ flagged their concern about future possible crises in agriculture where, for example, it would be necessary to support only one affected product sector and which is impossible to predict in advance the impact of such an aid measure on the proposed sector cap. Secondly, they are also concerned about a disproportionate increase in the administrative burden of granting aid, especially for the public sector as the granting authority if the sector cap were to become mandatory.

DAFM supports the Czech Republic's suggestion to abolish the sectoral cap or to increase the cap to 70%.

2) Transparency Requirements

The Commission proposes to have in place a mandatory register. Details on the operation of this register are not yet fully available, and while a 2nd Advisory meeting will be held in November to discuss this in more detail, there are questions which should be flagged now.

DAFM Position:

Ireland wishes to raise to a number of queries including:

- It is noted that the EU level register is to be created by 2026 – will there be one register to cover all De Minimis Regulations, or separate registers for Agri, Fisheries, General, etc.
- Who will have access to the data uploaded?
- The draft text states publication will be done by name of beneficiary – DAFM currently operates on Vendor Numbers/Herd-owner IDs/Keeper IDs,

these are unique identifiers. Will these be reported with names? If not, how will beneficiaries be uniquely identified? If so, how will this work re: GDPR?