



Brussels, **XXX**
[...](2021) **XXX** draft

COMMISSION REGULATION (EU) .../...

of XXX

amending Regulations (EU) No 1408/2013 and (EU) No 717/2014 as regards their adaptation to reflect the provisions of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and its Protocol on Ireland/Northern Ireland

(Text with EEA relevance)

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amending the Annexes to Regulations (EU) No 1408/2013 and (EU) No 717/2014 as regards their adaptation to reflect the provisions of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and its Protocol on Ireland/Northern Ireland

(Text with EEA relevance)

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 aid¹, and in particular Article 2(1) thereof,

After consulting the Advisory Committee on State aid,

Whereas:

- (1) Annexes I and II to Commission Regulation (EU) No 1408/2013² set out the maximum cumulative amounts of *de minimis* aid granted per Member State to undertakings active in the primary production of agricultural products over any period of three fiscal years referred to, respectively, in Article 3(3) and Article 3(3a) of that Regulation.
- (2) The Annex to Commission Regulation (EU) No 717/2014³ sets out the maximum cumulative amounts of *de minimis* aid granted per Member State to undertakings active in the fishery and aquaculture sector over any period of three fiscal years referred to in Article 3(3) of that Regulation.
- (3) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community⁴ ('the Withdrawal Agreement'), of which the Protocol on Ireland/Northern Ireland ('the Protocol') forms an integral part, entered into force on 1 February 2020.

¹ OJ L 248, 24.9.2015, p. 1.

² Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector (OJ L 352, 24.12.2013, p. 9).

³ Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

⁴ OJ C 384I, 12.11.2019.

- (4) Article 126 of the Withdrawal Agreement provides for a transition period ending on 31 December 2020, after which Union law is no longer applicable to the United Kingdom of Great Britain and Northern Ireland.
- (5) However, Article 10 of the Protocol provides that certain provisions of Union law listed in Annex 5 to that Protocol shall apply to the United Kingdom in respect of measures affecting the trade in agricultural products between Northern Ireland and the Union
- (6) Regulations (EU) No 1408/2013 and (EU) No 717/2014 are listed among those provisions.
- (7) In order to ensure compliance with the provisions of the Withdrawal Agreement and the Protocol, it is necessary to replace the maximum cumulative amounts for the entire United Kingdom set out in the Annexes to Regulations (EU) No 1408/2013 and (EU) No 717/2014 with the corresponding amounts for Northern Ireland alone.
- (8) In order to ensure a level playing field, the maximum cumulative amounts for Northern Ireland should be based on the same calculation method as that which was used for the Member States at the time when those Annexes were established.
- (9) Regulations (EU) No 1408/2013 and (EU) No 717/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1408/2013

Regulation (EU) No 1408/2013 is amended as follows:

- (1) Article 1(b) is replaced by the following:

‘(b) 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 expenditure linked to the export activity;

- * As in accordance with Article 10 and Annex 5 of the Protocol to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 384I, 12.11.2019), certain provisions of Union law relating to State aid in respect of measures affecting the trade between Northern Ireland and the Union continue to apply to the United Kingdom, any reference to a Member State in this Regulation shall be construed as a reference to a Member State or the United Kingdom in respect of Northern Ireland’
- (2) in Annex I, the row setting out the maximum cumulative amount of *de minimis* aid for the United Kingdom is replaced by the following:

‘United Kingdom in respect of Northern Ireland 29 741 417’;
- (3) in Annex II, the row setting out the maximum cumulative amount of *de minimis* aid for the United Kingdom is replaced by the following:

‘United Kingdom in respect of Northern Ireland 35 689 700.’

Article 2

Amendments to Regulation (EU) No 717/2014

Regulation (EU) No 1408/2013 is amended as follows:

- (1) Article 1(b) is replaced by the following:

‘(b) 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 expenditure linked to the export activity;

* As in accordance with Article 10 and Annex 5 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 384I, 12.11.2019), certain provisions of Union law relating to State aid in respect of measures affecting the trade between Northern Ireland and the Union continue to apply to the United Kingdom, any reference to a Member State in this Regulation shall be construed as a reference to a Member State or the United Kingdom in respect of Northern Ireland’
- (2) In the Annex to Regulation (EU) No 717/2014, the row setting out the maximum cumulative amount of *de minimis* aid for the United Kingdom is replaced by the following:

‘United Kingdom as regards Northern Ireland 2 956 390’.

Article 3

Entry into force

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

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