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Directorate-General for Competition  
Unit H.6

## Finnish written comments on revised state aid rules for the agricultural and forestry sectors and in rural areas

Dear DG Comp H6 team,

please find in annex the written contribution by Finland on the revised state aid rules for agriculture and forestry (RE: HT.5788).

Director General

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Annex      Written contribution by Finland RE: HT.5788

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## Annex

### **Finnish written contribution on the revision of state aid rules for the agricultural and forestry sectors and in rural areas**

Finland appreciates the opportunity to comment on the proposal. The update is necessary, timely and can for the most part be supported. This document outlines the Finnish position on the proposal. In addition, response also contains more technical questions and comments concerning cross-referencing and possible issues with language versions.

The stated goals of the revision – to align the state aid framework with the new CAP rules and the Green Deal objectives, and to bring them up to date in order to ensure their relevance for Member States for the coming years – can in general be supported. Member States need to be provided with the required options to undertake programs furthering common goals, as set out in Union legislation, in the most appropriate and efficient way. Finland emphasizes, that the contributions toward common objectives and agreed upon targets are the same regardless of whether national or co-financed funds are used.

All efforts toward reducing the administrative burden associated with the notification, implementation and reporting of state aid programs, where they can be introduced without undermining competitive balance, are particularly welcomed.

#### **Common observations (ABER + GL)**

Finland recalls that a distinction is made in the guidelines between large enterprises and other undertakings. The SME definition includes a definition of linked enterprises. It is not only the capital or shareholdings that needs to be assessed and evaluated, but also the control that one enterprise has over another. **If the amount of aid is small, the administrative burden of assessing those links is disproportionate in relation to the amount of aid granted.**

Finland supports a limited exception to allow for aid to undertakings in difficulty with regard to aid for the payment of insurance premiums under section 1.2.1.6 of the guidelines and article 27 of ABER in order to further limit the administrative burden. A corresponding exception exists for direct prevention, control and eradication measures in the case of animal diseases referred to in points (371) and (372) in Part II, Section 1.2.1.3. Given that undertakings in financial difficulties are extremely unlikely to dedicate their limited funds to the payment of voluntary insurance premiums – supported by state aid or not – the administrative requirement to check whether or not the beneficiary is in difficulties for this particular measure has a negligible effect on the group of undertakings ultimately benefitting from the measure. A similar extension for the same reasons could be considered for section 1.2.1.7 aid for mutual funds.

Finland notes the lowering of the publication threshold for individual aid from 60 000 EUR to 10 000 EUR for agriculture, and from 500 000 EUR to 100 000 EUR for forestry. While in line with the proposed changes to the horizontal state aid rules, these changes are nevertheless significant and will considerably increase the amount of work needed to fulfill the transparency obligations.

Personal data concerning the health of natural persons and other sensitive information should always be kept confidential. Access to such data is restricted in all Member States. Finland points out that the transparency requirements, especially when applied to the aid measure for farm replacement services, can lead to contradictory requirements. **Publishing beneficiary data on individual aid awards on aid for farm replacement services may include enough data to discern or deduce the health status of the farmer, or other sensitive personal situations.** The new provisions concerning transparency requirements for aid for farm replacement services should make an exemption to transparency rules when the publication of the beneficiary, type of aid and the aid amount could indirectly reveal confidential personal information.

## **Guidelines**

Finland finds it important to receive additional information and clarification on how the **EU taxonomy regulation and the “do no significant” harm principle** included in the guidelines would be applied as part of the balance test and evaluation of the notified investment aid schemes. Additions to the evaluation criteria for state aid should not endanger the predictability of the approval for the aid schemes by the Commission or the legal certainty in implementing the approved aid schemes. Finland especially notes that reference is made in the draft guidelines to the entirety of Article 3 of the Taxonomy Regulation, including the technical screening criteria under point d), the totality of which has not yet been fully established.

Under eligible costs for farm replacement services, in point 305 (and in the corresponding ABER art. 22), Finland is pleased to see the addition of mandatory military service to the list. For reasons of consistency and fairness, Finland trusts that the phrase “mandatory military service” is interpreted to include also mandatory civil service (national non-military counterpart to conscription), as well as female conscripts, who voluntarily enter into military service.

Finland welcomes the addition of loss of income under indirect, eligible costs in point (394)(b) under measure 1.2.1.5 Aid to compensate for the damage caused by protected animals.

As stated in point (53) of the draft guidelines, **the Commission considers that aid schemes with ecological, protective and recreational objectives in accordance with Part II section 2.8 are not required to have or are deemed to have an incentive effect when they fulfill the requirements laid out in point (53a)**. This exception means that aid can be granted even if work on the relevant project or activity has already started prior to the aid application by the beneficiary to the national authorities, see point (48). The aid scheme must inter alia establish a right to aid in accordance with objective criteria and without further exercise of discretion. **Finland proposes that a corresponding limited and objective exception is extended to aid for the forestry sector given in section 2.1.4 (investments improving the resilience and environmental value of forest ecosystems) when they fulfill the required criteria (i-iii). The objectives of section 2.1.4 can be considered to contribute to similar ecological and protective goals.** Finland also proposes explicitly including in the Guidelines that insufficient budget appropriation leading to a refusal of aid is not to be seen as further discretion exercised by the Member State, regardless of the fulfilment of established objective conditions. The former state aid [guidelines](#) 2007-2013 included a provision concerning budget resources (see point 16 c; OJ C 319, 27.12.2006 p. 3 ).

**Finland welcomes the change in the point (53k), which states that for information actions in the forestry sector in accordance with Part II section 2.4, making available the information to an undefined number of beneficiaries is not required to have or is deemed to have an incentive effect.** This is consistent with the changes in the block exemption regulation for information actions. This welcome change facilitates the organization of large-scale information activities, especially over the internet. In these types of information activities, requiring prior application unnecessarily complicated the process and limited the spread of the message, thus undermining the positive effects.

**Finland finds it important that the guidelines would allow aid to be granted on the basis of average costs** whenever, considering the size or type of the intervention, the distorting effect for the markets can be considered minimal. This is important especially for the aid in the forestry sector where the individual aid amounts in some of the aid categories are rather small. **Finland supports the Commission’s simplified options for the aid amount laid out in point (90) and considers that this makes the use of average costs possible** whenever they are based on the statistical data and verified historical data of individual beneficiaries.

In point (512 d) of the same eligible costs part the guidelines state that in case of damage by adverse climatic events, which can be linked to climate change, beneficiaries should endeavor to include climate change adaption measures to prevent similar events in the future. **It is worth noticing that the**

**connection between a particular event and climate change is very hard to establish or demonstrate.**

In relation to section 2.1.6 (investments in infrastructure related to the development, modernization or adaptation of forestry) in the aid intensity, there is a requirement for free public passage for the forest roads. Finland finds this important and supports the principle. **However, in the Finnish climatic conditions there is a need to limit the free public use during the usually relatively short frost heave period to avoid rutting, which can lower or completely prevent traffic without considerable repair costs. Finland suggests that this would be added to section 2.1.6, or at least taken into consideration when applying the condition in practice.** This timely, short and justified limitation actually guarantees the public free use of the roads, since the point of the limitation is to keep the roads in good condition for all users.

In relation to section 2.3 (aid for forest-environment and climate services and forest conservation) Finland asks for clarification on point (540), and the possibilities of paying the 20 % aid premium. This provision is interesting, as this could allow for compensation to the landowner for dead wood that has high environmental value but no real market value. This example concerns environmental commitments in the forestry sector. From the point of view of enhancing biodiversity, it is important to have mechanisms that allow this kind of compensation. Finland would also like to stress that from the point of view of enhancing biodiversity in the forestry sector, it is important that the commitments last at least ten years. Therefore, Finland welcomes point 539, which allows commitments made for longer periods than seven years where this is necessary and duly justified.

Finland also notes the uncertainty that is affecting the global food markets as a result of the war in Ukraine. In preparation for these types of unforeseen circumstances, Finland recommends the Commission to consider the addition of a general measure to ensure food security and national preparedness in preparation for a crisis. Such a measure could be in the vein of section 5.7 of the current Fisheries guidelines, Aid for other measures, allowing the Commission to assess the merits of the aid on a case-by-case basis.

## **ABER**

For the sake of clarity, Finland hopes to receive further information or an explanation regarding the monitoring and cumulation of different aid awards under ABER article 21(8) and (9). It is not clear whether the limit of 25 000 euros applies to all aid for advisory services granted to an undertaking under article 21, or for example, for the aid received from any given aid program.

Finland considers the addition of emerging diseases as eligible under Article 25 to be an improvement. Under art 25(13)(b), Finland considers it important to add a mention for animal diseases in addition to plant pests, as long as the procurement is open to all undertakings. This is because in the case of animals that are not as common, it may be practically impossible to find a service provider other than the beneficiary to undertake the necessary measures. A similar exception has proven warranted and useful in the context of the fisheries state aid rules for the above reason.

**Finland welcomes the new definition of the scope of application as to forestry measures.** It is good that the scope of application of the proposed block exemption regulation covers aid in favour of forestry even if the aid is not part of national CAP strategic plan. The positive and competitive effects of the national measure are identical regardless of whether the measure is undertaken as part of the national CAP plan or as a stand-alone program.

Under article 39(2), it is stated that the aid may cover costs of any relevant action to promote innovation, training and advice. Finland invites the Commission to clarify what is meant by the addition of “advice” under this article, and how the differences between “advice” here and under article 40 should be interpreted.

Finland points out that while adding article 46 (Aid for basic services and village renewal in rural areas) to the scope of ABER is not something to object to in principle, the corresponding intervention is no longer included in the CAP strategic plan regulation.

Finland also notes that certain options to undertake Leader and EIP-measures also for agriculture were made available under the GBER in 2021, and calls on the Commission to ensure that the instruments rather complement each other, instead of overlapping in scope and available measures.

Finland notes that aid for investments concerning the processing of agricultural products into non-agricultural products is not included in the draft ABER (article 44 of the current ABER). This aid category has been very useful and there is definite need for it in the future. Finland is aware that GBER in principle covers the same activities, but GBER comes with differing and complicated rules (regional investment aid) for often very small processing companies. Under draft ABER article 2(44) there is still a definition for “processing of agricultural products into non-agricultural products”.

As regards investments in general and their state aid clearance under CAP, the state aid rules do not seem to provide flexibility to the extent envisaged in the CAP legislative process. Finland points out that CAP SPR article 73 covers investments in tangible and intangible assets. Finland has understood that, in the CAP, it is the Member state’s task to specify what kind of tangible and intangible investment costs are eligible in each CAP intervention.

Investment articles of the draft ABER have the same specifications that were used in 2014-2020. In practice, this means that Member states don’t have actual possibilities to list eligible costs as needed in different interventions in the CAP. Situation is even more complicated when the eligible investment costs are defined differently in GBER. Finland encourages simplifying the eligible investments costs under ABER and letting the Member states to define the eligible costs as needed in different interventions under the CAP.

Same applies for the proposed ABER article 47 concerning business start-up aid for non-agricultural activities in rural areas. The draft ABER lists the same rules that were used during the period 2014-2020. Finland has understood that it is up to the Member state to make further specifications that are needed in the intervention in addition to what is said in CAP SPR article 75. During the CAP legislative process, the Commission has emphasized that Member states now have a possibility to design interventions according to their needs.

Draft ABER article 47 point 8 mentions that aid is limited to 70 000 euros per beneficiary. The aid amount differs from SPR article 75 point 4 that mentions 100 000 euros maximum aid amount.

### **Technical questions, referencing and language versions**

On point (80) the Commission considers that the aid amount should not exceed the eligible costs, with the exception provided in Part II, Sections 1.2.2, 2.1.4 and 2.3. **The draft guidelines do not, however, seem to provide for exceeding the eligible costs under Section 2.1.4.**

**As regard to the section 2.8.4 (aid for maintaining roads to prevent forest fires)** there is a condition that aid should aim at preventing forest fires. To support the planning of the future aid schemes Finland would like to ask, how the Commission defines and verifies the link between road maintaining and the prevention of the forest fires. Is there a common guidance or criteria on planning the forest roads for the prevention of forest fires? **Usually roads are multifunctional. To what extent may the road be used for other purposes than prevention of forest fires?**

Under point (23) of the guidelines, there is an issue in cross-referencing. Reference is made to the definition of undertaking in difficulty within the meaning of point (32)63. The point referenced, however, is TSE and BSE test costs. Undertaking in difficulty is point (32)64.

There seems to be a differing definition for plant pest under point 32(45) of the guidelines and article 2(41) of ABER.

Concerning point (58) of the guidelines on the start of works, the Finnish language version seems to have omitted the key distinction “the earlier of”, which is significant in deciding which of the options listed is applied.

In point (194) of the guidelines, it is stated that aid must not be granted to farm relief services. For reasons of consistency throughout the document, Finland considers whether or not it would be preferable to refer to farm replacement services instead.

On point (306) of the guidelines, there is a meaningful discrepancy in the Finnish language version compared to the English version concerning the authorized prolongation of the three- and six-month periods for farm replacement services.

Under article 25(3) of ABER, the Finnish language version states that aid shall be granted to diseases listed in both the EU Regulations and in the OIE list. The English version of ABER uses “or” instead of “and” in the corresponding spot. For the sake of clarity, both versions should use “or”. The English language version of the guidelines, under point (367), similarly uses “and”. The phrasing should be consistent for both the guidelines and the ABER – both should use “or” in this spot.

Point (368) of the guidelines and its corresponding condition in ABER art. 25(4) do not seem to be in line with regard to references to EU Regulations. Finland considers the version included in the ABER to be more comprehensive.

In point (373) of the guidelines, it states that aid in relation to eligible costs referred to in points (374) and (375) must be granted in the form of subsidized service. Point (374), though, is compensation for damage caused by pests – not a subsidized service. Finland assumes that point (373) should refer to points (371) and (372) instead.

Compared to the current guidelines, under the point 521, the words “and/or” before “enhancement of public amenity value” have been removed for the list of eligible costs. The change does not seem to be meaningful in terms of interpretation, but if it is, Finland requests clarification on what the difference is between the old and new version.

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