Ireland's Comments

Review of Agriculture State Aid - Draft Agricultural Block Exemption Regulation and Guidelines for State aid in the agricultural and forestry sectors and in rural areas

Draft Agricultural Block Exemption Regulation	
Article	**Comments**
Article 1 Paragraph 5, (f)	IE welcomes the inclusion of EIP groups in Article 1.5.
Article 4 Notification Thresholds ▪ 1(l) '. aid for investments for basic services and village renewal in rural areas…'	IE requests clarification as to what is meant by 'basic services. Does this refer to water, sewage, electricity, etc. Will a definition be included in the Regulation?
Article 7.1 Aid intensity and eligible costs	IE considers that the simplified costs option for calculating eligible costs should be available for purely nationally funded schemes.
Article 9 Publication and information Publication threshold reduced to €10,000	The proposed lowering of the publication threshold from the current threshold of €60,000 is a very significant change from the current level. This change will greatly increase the administrative burden of Member States. IE does not consider that this low threshold for reporting is justified for the ABER.

Article 11 Reporting ▪ New requirement to submit Annex II within 20 working days following entry into force	IE considers that ongoing informal contacts with the Commission to clarify state aid requirements remain essential prior to submission. We will continue to engage cooperatively in this manner.
Article 13 Aid for investments in agricultural holdings linked to primary agricultural production ▪ Paragraph 4 … '. provided that such production does not exceed the average annal consumption of fuels or energy of the given farm.' '. 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.' ▪ Paragraph 5. '. the production facilities shall serve only the beneficiary's own energy needs and their production capacity shall be no more that 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.'	IE welcomes the emphasis in Article 13 regarding support for investments contributing to climate change mitigation and adaptation, sustainable development and efficient management of natural resources, halting and reversing biodiversity loss, enhancing ecosystem services and preserving habitats and landscapes. However, Ireland is concerned about limited support for investment in renewable energy. Support for farmers to invest in renewable energy is limited to production capacity for the needs of the farm and farm household. IE considers that this limitation is not consistent with overall European policy regarding the development of renewable energy. The Renewable Energy Directive supports increased use of renewable energy and sets targets for the proportion of energy that must be provided from renewables. The restrictions in the ABER and Guidelines limit farmers. They should be able to benefit more, by a greater possibility to supply renewable energy to the grid. This would be coherent with farm diversification, support the green transition and reinforce European energy security. IE asks the Commission to consider expanding the text in the revised ABER and guidelines to allow further support for farmers to produce energy in excess of their own production needs and export it to the grid.

Article 16 Aid for investments in connection with the processing and the marketing of agricultural products.	IE welcomes the addition at Art 15.5.(d) of acquisition or development or usage fees of computer software, cloud and similar solutions, and the acquisition of patents, licences, copyrights and trademarks.
Article 17 Start-up aid for young farmers and start-up aid for agricultural activities ▪ Para 7 specifies the support shall be in the form of a lump sum without any reference to tax advantage ▪ Para 7 also specifies the aid shall be limited to €100 000, per young farmer or start up in farming or per farm household. This is an increase on the €70 000 in Regulation 702/2014	Ireland would welcome greater provision in the revised ABER for aid to promote early transfer of agricultural holdings. IE considers it would be beneficial to specifically state in the text that support could be provided in the form of a tax advantage. IE welcomes the proposal to increase the threshold for support to young farmers in the form of lump sum to €100 000. IE suggests that the threshold should be further increased to € 120k.
Article 18 Start-up aid for producer groups and organisations in the agricultural sector • Aid shall be paid as a flat rate	IE considers that the text should also include a specific reference to tax advantage.
Article 27 Aid for the payment of insurance premiums ▪ Aid intensity is increased to 70% (from 65%) of the costs of the insurance premiums	IE supports this increase

Article 32 Aid for research and development in the agricultural and forestry sectors	With regard to the requirements to publish information on the Internet, Ireland requests further clarification. There is a difference between the text of the ABER and the Guidelines regarding the role of the Research Performing Organisation and Ireland would appreciate clarification regarding whether it is their role to publish or not. The new text in the ABER appears to put additional obligations on the Research Performing Organisations. IE considers that the existing wording is preferable.
Article 33 Aid for afforestation and the creation of woodland • 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.** **AND** Article 36 Aid for investments improving the resilience and environmental value of forest ecosystems • 2. Investments shall be aimed at the achievement of commitments for	Ireland welcomes the expansion of the ABER to provide from schemes wholly funded from national funding. Ireland considers that funding for non-native species should be permitted when it is funded outside the CAP Strategic Planning process. If non-native trees are acceptable under co-financed funding, they should be acceptable under 100% national funding. If further environmental provisions are needed for this, in order to match the provisions of the CAP Strategic Plan Regulation, these can be included in the text of the ABER. The European Green Deal aims to make Europe carbon-neutral by 2050, while the Fit for 55 package proposes to set an EU target of net greenhouse gas removals of -310 million of tonnes CO_2 equivalent by 2030, achieving climate neutrality in the combined land use, forestry and agriculture sector by 2035 at EU level. Ireland's Climate Action Plan 2021 sets a target of 22-33% greenhouse gas (GHG) emissions reduction by 2030 for the agriculture sector and the Land Use, Land Use Change and Forestry (LULUCF) sector to a 37-58% emissions reduction in the same timeframe. It is widely recognised that afforestation is the single largest land-based climate change mitigation measure available to Ireland and that management of the existing forests potentially provides opportunities to increase carbon stores. Sustainable forestry must satisfy the needs of three key pillars: Economic, Societal and Environmental. This is also in line with the objectives of the EU Forest Strategy which recognises the multifunctional role of forests, including their economic, social and environmental functions. Ireland's Forestry Programme 2014-2020 provides support 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.	multi-functional forests that provide benefits to the environment, communities, and local economies. Both native and non-native forests can provide these benefits. Current afforestation conditions include the requirement for 15% broadleaves to be planted in any productive forest and the planting of broadleaves compared to total forest planting has reached 41% in 2021. Continued strong supports for broadleaf planting will be part of the development of the next National Forestry Programme. However the importance of non-native trees, both coniferous and broadleaf, in achieving the targets set out in the Climate Action Plan must be highlighted. Many species native to continental Europe are not considered native to Ireland. This, in conjunction with the current prohibition of planting either elm or ash due to susceptibility to disease, results in limited native species options for planting forests. Non-native species, both coniferous and broadleaf, have always featured in Ireland's planting programme and are an essential component of it. All applications for an afforestation licence in Ireland are assessed subject to the requirements under the Forestry Regulations SI191 of 2017, whereby a full environmental assessment is required by the Department. This assessment includes referrals to 3rd parties, the application of Appropriate Assessment and EIA screening, and public consultation. Other procedures and requirements, such as the Land Types for Afforestation system, the Acid Sensitivity Protocol and the Freshwater Pearl Mussel Requirements, also apply. Careful consideration is also given to the selection of species, and provenances of trees which takes into account all the site conditions of the area concerned. Conifer species introduced in the 1830s have allowed Ireland to build a forest and sawmilling industry from a very low level in the 1900's through to the modern, sustainable timber industry that we have today. Wood production provides a contribution to sustainable forest management by creating jobs, providing income for farm forest owners, funding forest management activities and providing a source of

	bioenergy. Ireland's native conifers are limited to just three species of which, Scots pine is the only species capable of producing a uniform clear section of useable timber for construction purposes. Therefore, with a requirement for wood that is produced from a sustainably managed forest, the introduction of productive conifers fulfils many of the objectives including a renewable and environmentally friendly resource. Altitude statistics identify the limited range of species suitable to higher elevations. Only Sitka spruce, 'other pines', Larch, Birch, Oak and a small area of other broadleaves are suitable to be planted at elevations over 300m. The occurrence of broadleaf tree species over 200m is uncommon. Ireland considers that it is inconsistent to permit non-native trees through CAP Plans but not outside them. It would be appropriate to refer to the text of Regulation (EU) 2021/2115 from 2nd December 2022 in the new ABER and ensure that the conditions set out in the ABER reflect the provisions set out in Article 73 (Investments) of these Regulations. For the reasons detailed above, Ireland suggests that a reference to environmental requirements such as those included in the Pan -European Guidelines for Afforestation and Reforestation (Art 73.3(g) of Regulation (EU) 2021/2115) could be included to clarify that all support, national or co-financed must meet these standards.
Article 34 Aid for agroforestry systems • 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	Agroforestry has positive effects on several environmental and climate impacts. Agroforestry has been cited as a means to increase sustainability and biodiversity at a farm level while allowing farming to continue on the same parcel of land. Trees planted in agroforestry systems mitigate climate change in the same way other forest types do. Although the initial stocking rate is less than conventional approaches, the final stocking rate will be the same as other broadleaf forest types (roughly 100-150 stems /ha). Trees planted in agroforestry systems are protected under Ireland's Forestry Act 2014 and therefore constitute a permanent land use change.

	Results from surveys that have been carried out to identify barriers for take-up of agroforestry by farmers have shown that the premium duration is seen as the main obstacle to agroforestry planting by farmers. The current premium duration is at 5 years, compared to 15 years for all other forest types included in Ireland's current Afforestation Scheme. It generally takes longer than 5 years for broadleaf trees to be established, and careful maintenance and protection of the trees is required for a much longer period of time for a successful agroforestry system to be established. This involved additional costs to the farmers beyond the suggested 5-year period. In addition, an extended premium payment will enable the Department to monitor, guide and ensure there is a smooth transition once protective shelters and wire supports are removed and alternative protective measures are provided to the remaining trees. It is imperative that premium payments can be extended to more than 5 years, **preferably to 12-15 years.**
Article 50 Aid for costs incurred by SMEs participating in CLLD or EIP Operational Group projects Article 51 Limited amounts of aid to SMEs benefitting from CLLD or EIP Operational Group projects	IE welcomes the recognition of EIPs in the draft ABER. However, we would see value in extending the threshold (article 50 - €2m and Article 51 €350k for aid to SMEs – ref Art. 4(m) and (n)). If a large EIP project is undertaken, for instance to address water, climate or biodiversity priorities, it may require costs in excess of €2m.
Article 52.2	Ireland would appreciate clarification with regard to the date of the eligible expenditure under Council Regulation (EU) 1305/2013. Eligible expenditure under this Regulation will be taking place until 31 December 2025.
Article 53 Transitional provisions	IE considers that the adjustment period of six months should be extended to 12 months for aid granted under Reg 704/2014, i.e. until 31 December 2023.

Guidelines for State aid in the agricultural and forestry sectors and in rural areas	
Part	**Comments**
Part I, Chapter 3	3.2.6 (138) Where aid is granted under these Guidelines in favour of investments, the Commission will also pay attention to Article 3 of Regulation (EU) 2020/852 of the European Parliament and of the Council, including the "Do no significant harm" principle, or other comparable methodologies. IE considers that Member States will require further guidance regarding how these new principles set out in Regulation (EU) 2020/852 will apply.
Part II, Chapter 1	24-month derogation for changes in Union Law. Ireland seeks further clarification regarding the absence of a derogation for investments under 1.1.1. The CSP Regulation provides for derogations to meet standards under Art 74 Investments. However, it is proposed to remove this derogation for investments under Article 1.1.1.

<table>
<tr><th colspan="2">Proposal to remove areas currently included in both the agriculture and the general state aid Regulations from the Agriculture Rules.</th></tr>
<tr><td>Proposal to exclude the following areas from the agriculture state aid rules
Aid for investments concerning the processing of agricultural products into non-agricultural products or the production of cotton
Business state up aid for non-agricultural activities in rural areas.
Aid for advisory services for SMEs in rural areas.</td><td>IE considers the exclusion of these provisions from the draft ABER/Guidelines may cause restrictions. There are limitations in the GBER. Therefore Ireland does not support removing these areas from the Agricultural provisions in light of these limitations.

Article 1 of the GBER sets out the scope and paragraph 3(b) states:

3. This Regulation shall not apply to:
(b)
aid granted in the primary agricultural production sector, with the exception of regional investment aid in outermost regions, regional operating aid schemes, aid for consultancy in favour of SMEs, risk finance aid, aid for research and development, innovation aid for SMEs, environmental aid, training aid, aid for disadvantaged workers and workers with disabilities, aid to European Innovation Partnership for agricultural productivity and sustainability (EIP) Operational Group projects, aid to community-led local development (CLLD) projects, aid to European Territorial Cooperation projects and aid involved in financial products supported by the InvestEU Fund;

This limits the scope of GBER aid for farmers to certain limited aid categories which may not necessarily cover the areas of support currently allowed under the Agriculture Rules. The possible limitations are as follows:

Regional Investment Aid in Outermost Regions and Regional Operating Aid Schemes
Ireland’s Regional Aid coverage does not meet the conditions, and as such regional investment aid in outermost regions and regional operating aid schemes cannot be granted in Ireland.</td></tr>
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	Aid for consultancy in favour of SMEs While this may be an option in some circumstances it would be limited. **Risk Finance Aid** This only applies to Undertakings who have not been operating markets or for less than 7 years following their first commercial sale. **Innovation aid for SMEs** The eligible costs are quite restrictive in this category: *(a) costs for obtaining, validating and defending patents and other intangible assets; (b) costs for secondment of highly qualified personnel from a research and knowledge-dissemination organization or a large enterprise, working on research, development and innovation activities in a newly created function within the beneficiary and not replacing other personnel;* and (*c) costs for innovation advisory and support service*. The aid limit is 50% aid intensity and up to €7.5m per Undertaking per project. This is quite specific and could in practice be limiting. In light of this Ireland does not support excluding these areas from the Agricultural Guidelines.
Other Issues	
Gender Equality	The new CAP Regulations place particular focus on promoting the participation of women in the socio-economic development of rural areas, with special attention to farming. Specific recognition in the revised Guidelines and the ABER for measures to address this CAP objective would be welcome.