

## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

## EUROPEAN COMMISSION

**European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020**

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## PART I. COMMON PROVISIONS

### Chapter 1. Introduction

- (1) Article 107(1) of the Treaty on the Functioning of the European Union ('the Treaty') stipulates that, '(s)ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.'
- (2) However, despite that general prohibition State aid may be necessary to address market failures in order to ensure a well-functioning and equitable economy. Therefore, the Treaty leaves room for the granting of State aid in respect of several policy objectives. With particular relevance to the agricultural sector and forestry, firstly in accordance with Articles 107(2)(b) of the Treaty, aid to make good the damage caused by natural disasters or exceptional occurrences shall be compatible with the internal market. Secondly, on the basis of Articles 107(3)(c) of the Treaty, the Commission may consider compatible with the internal market State aid to promote the economic development of the agricultural and forestry sectors and of rural areas, provided that it does not adversely affect trading conditions.
- (3) Furthermore, due to the specificities of the agricultural sector, Article 42 of the Treaty provides that the rules on competition apply to production of and trade in agricultural products only to the extent determined by the European Parliament and the Council.
- (4) In these Guidelines, the Commission sets out the conditions and criteria under which aid for the agricultural and forestry sectors and for rural areas will be considered to be compatible with the internal market and establishes the criteria for identifying the areas that fulfil the conditions of Article 107(3) of the Treaty. As regards aid granted pursuant to Article 107(2)(b), the Commission hereby sets out the conditions which will be verified in order to determine whether a measure constituting aid to make good the damage caused by natural disasters or exceptional occurrences is indeed covered by that Article.

- (5) State aid to promote the economic development of the agricultural and forestry sectors and of rural areas is embedded in the broader common agricultural policy ('the CAP'). Within the CAP, the Union provides financial support to the agricultural and forestry sectors and to rural areas. As the economic effects of State aid do not change depending on whether it is (even partly) financed by the Union, or whether it is financed by a Member State alone, the Commission considers that there should in principle be consistency and coherence between its policy in respect of the control of State aid and the support which is granted under the Union's own common agricultural policy. Consequently, the use of State aid can be justified only if it is in line with the objectives of this policy and, in particular, the underlying objectives of the CAP reform towards 2020 <sup>(1)</sup>. Therefore, when the Commission applies and interprets the rules of these Guidelines for specific aid schemes, it takes into consideration the CAP rules and policies.
- (6) The following European instruments are of particular relevance for State aid considerations related to the CAP:
- (a) Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries <sup>(2)</sup>, or any replacing regulation, which governs information and promotion measures for agricultural products and their method of production as well as for food products based on agricultural products carried out on the internal market or in third countries;
  - (b) Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 <sup>(3)</sup> and 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 <sup>(4)</sup>. Pursuant to those Regulations, support programmes can be established to take account of the geographical and economic handicaps of those regions;
  - (c) 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 <sup>(5)</sup>;
  - (d) 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 <sup>(6)</sup>, which aims at promoting sustainable rural development throughout the Union in a complementary manner to the other instruments of the CAP, such as direct payments and market measures. It contributes to the development of a more territorially and environmentally balanced, climate-friendly and resilient, competitive and innovative Union agricultural sector and to the development of rural territories;
  - (e) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 <sup>(7)</sup>;
  - (f) Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 <sup>(8)</sup> which lays down rules on direct payments granted directly to farmers in the form of a basic income support under certain support schemes;

<sup>(1)</sup> More details on the CAP reform are available at: [http://ec.europa.eu/agriculture/cap-post-2013/index\\_en.htm](http://ec.europa.eu/agriculture/cap-post-2013/index_en.htm)

<sup>(2)</sup> OJ L 3, 5.1.2008, p. 1.

<sup>(3)</sup> OJ L 78, 20.3.2013, p. 23.

<sup>(4)</sup> OJ L 78, 20.3.2013, p. 41.

<sup>(5)</sup> OJ L 347, 20.12.2013, p. 320.

<sup>(6)</sup> OJ L 347, 20.12.2013, p. 487.

<sup>(7)</sup> OJ L 347, 20.12.2013, p. 549.

<sup>(8)</sup> OJ L 347, 20.12.2013, p. 608.

- (g) 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 Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007<sup>(9)</sup>, which lays down common rules for agricultural markets. In particular, those rules concern public intervention in the markets, quota and aid schemes, marketing and production standards, and trade with third countries.
- (7) The CAP is based on two pillars: the first pillar consists of instruments related to the functioning of agricultural markets and the food supply chain (Regulation (EU) No 1308/2013, Regulation (EC) No 3/2008, Regulation (EU) No 228/2013 and Regulation (EU) No 229/2013) and to direct payments (Regulation (EU) No 1307/2013) conditional upon statutory management requirements, good agricultural and environmental conditions. Combined, those measures provide a fundamental layer of support to farmers in the Union, creating the basis for keeping sustainable farming in place throughout the Union. The first pillar measures are mandatory for Member States and, with very few exceptions, there is no co-financing. This ensures the application of a common policy within the internal market. The second pillar of the CAP is the rural development policy which is governed by Regulation (EU) No 1305/2013 which aims at improving the competitiveness of agriculture, the sustainable management of natural resources and climate action and a balanced territorial development of rural areas. Rural development measures are largely voluntary, contractual in nature, co-financed and delivered within a strategic framework and implemented via rural development programmes meeting the Union's priorities for rural development at national, regional and local level.
- (8) According to Article 39(1) of the Treaty, the objectives of the CAP are to increase agricultural productivity, to ensure a fair standard of living for the agricultural community, to stabilise markets, to assure the availability of supplies reaching the consumer at reasonable prices. According to Article 39(2) of the Treaty, in working out the CAP and the special methods for its application, account has to be taken of the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions, the need to effect the appropriate adjustments by degrees and the fact that agriculture constitutes a sector closely linked with the economy as a whole.
- (9) Agriculture has to adapt to new realities and to face challenges in terms of food security, environment, climate change and keeping the rural economy alive. In order to address those major challenges, in the Communication on the CAP towards 2020<sup>(10)</sup> the Commission has outlined the following objectives for the CAP 2014-2020: (1) viable food production; (2) sustainable management of natural resources and climate action; and (3) balanced territorial development.
- (10) As an integral part of the CAP, the rural development policy 2014-2020 shall contribute to achieving the following objectives: (1) fostering the competitiveness of agriculture; (2) ensuring the sustainable management of natural resources, and climate action; and (3) achieving a balanced territorial development of rural economies and communities including the creation and maintenance of employment. The achievement of these objectives of rural development shall be pursued through the following Union priorities for rural development: (1) fostering knowledge transfer and innovation in agriculture, forestry, and rural areas; (2) enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and sustainable management of forests; (3) promoting food chain organisation, including processing and marketing of agricultural products, animal welfare and risk management in agriculture; (4) restoring, preserving and enhancing ecosystems related to agriculture and forestry; (5) promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors; and (6) promoting social inclusion, poverty reduction and economic development in rural areas<sup>(11)</sup>.

<sup>(9)</sup> OJ L 347, 20.12.2013, p. 671.

<sup>(10)</sup> Communication of 18 November 2010 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future (COM(2010) 672 final).

<sup>(11)</sup> As defined in Articles 4 and 5 of Regulation (EU) No 1305/2013.

- (11) The CAP's objectives also fall within the scope of the objectives set out in the Communication from the Commission of 3 March 2010 'Europe 2020 - A strategy for smart, sustainable and inclusive growth'<sup>(12)</sup> and its flagship initiative for a resource-efficient Europe<sup>(13)</sup>, which set targets in areas such as competitiveness, climate, energy and biodiversity.
- (12) State aid policy in the agricultural and forestry sectors and in rural areas also has to be embedded into the overall State aid modernisation initiative of the Commission. In its Communication on State aid modernisation<sup>(14)</sup>, the Commission announced three objectives to be pursued through the modernisation of State aid control: (1) to foster sustainable, smart and inclusive growth in a competitive internal market; (2) to focus Commission ex ante scrutiny on cases with the biggest impact on the internal market while strengthening the cooperation with Member States in State aid enforcement; and (3) to streamline the rules and provide for faster decisions. In particular, the Communication called for a common approach in the revision of the different Guidelines and frameworks with a view to strengthening the internal market, promoting more effectiveness in public spending through a better contribution of State aid to the objectives of common interest, greater scrutiny on the incentive effect, limiting the aid to the minimum, and avoiding the potential negative effects of aid on competition and trade. The compatibility conditions set out in these Guidelines are based on those common assessment principles and are applicable to notifiable aid schemes and individual aid.

## **Chapter 2. Scope and definitions**

### **2.1. Effect of the CAP and the rural development policy on the scope of application**

- (13) In accordance with Article 42 of the Treaty, in so far as agricultural products listed in Annex I to the Treaty are concerned, the rules on State aid laid down in Articles 107 to 109 of the Treaty apply only to the extent determined by the European Parliament and the Council.
- (14) As a general rule, pursuant to Article 211(1) of Regulation (EU) No 1308/2013 the rules on State aid are applicable to the production of and trade in agricultural products. However, there are various derogations from this general principle which are laid down, amongst others, in Article 211(2) of Regulation (EU) No 1308/2013, Article 13 of Regulation (EU) No 1307/2013, Article 13(6) of Regulation (EC) No 3/2008, Article 23 of Regulation (EU) No 228/2013 and Article 17 of Regulation (EU) No 229/2013.
- (15) As regards support for rural development, the general principle of the applicability of State aid rules in that context is set out in Article 81(1) of Regulation (EU) No 1305/2013. Articles 81(2) and 82 of that Regulation stipulate that the State aid rules do not apply to payments made by Member States pursuant to, and in conformity with Regulation (EU) No 1305/2013 or to additional national financing within the scope of Article 42 of the Treaty.
- (16) Therefore, State aid rules do not apply to the co-financing of rural development support (both the EAFRD part and the national part) or to additional national financing on top of such support, provided that the measure in question is related to an agricultural activity falling within the scope of Article 42 of the Treaty and forms a part of the rural development programme.
- (17) However, State aid rules apply fully to all co-financed aid measures (both the EAFRD part and the national part) and to the additional national financing for such measures which fall outside the scope of Article 42 of the Treaty, envisaged in Regulation (EU) No 1305/2013 in the following cases: (a) measures supporting activities in the rural areas and (b) forestry measures.
- (18) If a Member State intends to finance exclusively from national funds (that is to say, without any EAFRD co-financing) a measure which is designed largely in accordance with the conditions of a given rural development measure ('rural development like measure'), State aid rules fully apply, regardless of whether the measure falls within or outside the scope of Article 42 of the Treaty.

<sup>(12)</sup> COM(2010) 2020 final.

<sup>(13)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2011) 21 final).

<sup>(14)</sup> COM(2012) 209 of 8.5.2012.

## 2.2. Scope of application

- (19) The Commission will apply these Guidelines to aid schemes and individual aid.
- (20) These Guidelines apply to State aid for the primary agricultural production, the processing of agricultural products resulting in another agricultural product and the marketing of agricultural products.
- (21) Based on the general considerations described in Section 2.1. of Part I of these Guidelines, in order to ensure coherence with the rural development policy and to achieve simplification for compliance with State aid rules, it is appropriate to also include in these Guidelines certain rural development measures falling outside the scope of Article 42 of the Treaty, whether co-financed by the EAFRD or additional national financing, as well as rural development like measures financed exclusively from national funds. Therefore, in addition to the agricultural sector, these Guidelines set out the compatibility criteria for State aid to the forestry sector and aid to undertakings active in rural areas which otherwise fall outside the scope of Article 42 of the Treaty.
- (22) When analyzing State aid and its compatibility with the general principles on State aid, the Commission will take into account, to the extent possible, the conditions laid down in Regulation (EU) No 1305/2013 and its implementing provisions and delegated act.
- (23) In view of the aforementioned considerations, these Guidelines cover the following categories of aid:
- (a) measures in the agricultural sector, financed exclusively from national funds, which consist of:
    - (i) rural development like measures falling outside the framework of a rural development programme (Section 1.1 of Part II of these Guidelines);
    - (ii) measures other than those referred to in (i) which fall outside the scope of Regulation (EU) No 1305/2013, such as certain risk and crisis management measures, aid for the livestock sector and certain promotion measures (Sections 1.2 and 1.3 of Part II of these Guidelines);
  - (b) aid for the forestry sector, which can be:
    - (i) granted as part of a rural development programme or as additional national financing for such rural development measure (Sections 2.1 to 2.7 of Part II of these Guidelines);
    - (ii) financed exclusively from national resources, in the form of
      - a rural development like forestry measure foreseen in Regulation (EU) No 1305/2013 and granted in accordance with the conditions of these Guidelines (Sections 2.1 to 2.7 of Part II of these Guidelines);
      - other aid in the forestry sector with ecological, protective and recreational objectives (Section 2.8 of Part II of these Guidelines);
      - aid in the forestry sector aligned with agricultural aid measures (Section 2.9 of Part II of these Guidelines);
  - (c) aid for undertakings active in rural areas which can be granted as:
    - (i) an aid measure included in a rural development programme, co-financed by the EAFRD pursuant to, and in conformity with Regulation (EU) No 1305/2013, where the notifiable State aid measure is identical with the measure in the rural development programme (Chapter 3 of Part II of these Guidelines); or



- (ii) additional national financing related to a measure in the framework of a rural development programme (Chapter 3 of Part II of these Guidelines).
- (24) Aid for LEADER local development referred to in Article 35 of Regulation (EU) No 1303/2013 and in Articles 42 to 45 of Regulation (EU) No 1305/2013, which involves individual projects designed and executed by local partnerships to address specific local problems, may be covered by these Guidelines to the extent that it meets the conditions of the related rural development measures as laid down in these Guidelines.
- (25) These Guidelines apply in principle to aid to SMEs and to large enterprises. Large enterprises tend to be less affected by market failures than SMEs. Moreover, large enterprises in the agricultural and forestry sectors and in rural areas are more likely to be significant players on the market and, consequently, in specific cases, aid granted to large enterprises may particularly distort competition and trade in the internal market. As aid to large enterprises in the agricultural and forestry sectors and in rural areas and to other large enterprises can potentially cause similar distortions of competition, State aid rules for large enterprises in these Guidelines should be harmonised with the general State aid rules, and should be subject to the common assessment principles as laid down in Chapter 3 of Part I of these Guidelines. Without prejudice to those common assessment principles, as regards rural development measures for reasons of consistency and coherence with the rural development policy, the State aid rules for large enterprises should be aligned with the relevant rules of Regulation (EU) No 1305/2013. As regards aid measures for the livestock sector, which do not fall within the scope of Regulation (EU) No 1305/2013, the Commission maintains its previous policy that large enterprises should be able to finance the costs of these measures themselves. Therefore, aid in the livestock sector should be limited to SMEs.
- (26) Undertakings in difficulty<sup>(15)</sup> are in principle excluded from the scope of these Guidelines. The Commission considers that when an undertaking is in financial difficulty, given that its very existence is in danger, it cannot be considered an appropriate vehicle for promoting other public policy objectives until such time as its viability is assured. Therefore, where the beneficiary of the aid is in financial difficulty within the meaning of point (35)15, the aid will be assessed in accordance with the Community Guidelines on State aid for rescuing and restructuring firms in difficulty<sup>(16)</sup>, as amended or replaced. This principle does not apply to compensatory aid for damage caused by natural disasters and exceptional occurrences referred to in Sections 1.2.1.1 and 2.1.3 of Part II of these Guidelines which is compatible with the internal market under Article 107(2)(b) of the Treaty. If the financial difficulty of an undertaking active in the agricultural and forestry sectors has been caused by the risk event referred to in Sections 1.2.1.2., 1.2.1.3, 1.2.1.5, 2.1.3 or 2.8.5 of Part II of these Guidelines, aid to compensate for or restore the losses or damage caused by such risk events and to cover the costs of eradication of plant pests can be granted in line with these Guidelines and may be still found compatible with the internal market under Article 107(3)(c) of the Treaty. In addition, for reasons of public health protection and having in mind the emergency situation, no distinction should be made, under certain conditions, as to the economic situation of an undertaking for aid for destruction and removal of fallen stock in Section 1.2.1.4 and for aid for eradication measures in the case of animal diseases referred to in point (375)(c) of Section 1.2.1.3.
- (27) When assessing aid granted to an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, the Commission will take account of the amount of aid still to be recovered<sup>(17)</sup>. This does not apply to aid to make good the damage caused by natural disasters under Article 107(2)(b) of the Treaty.

<sup>(15)</sup> See definition of undertaking in difficulty in point (35)15.

<sup>(16)</sup> OJ C 244, 1.10.2004, p. 2. As prolonged by OJ C 156, 9.7.2009, p. 3 and OJ C 296, 2.10.2012, p. 3.

<sup>(17)</sup> See in this respect joint Cases T-244/93 and T-486/93, TWD Textilwerke Deggendorf GmbH v Commission, [1995] ECR II-02265.

- (28) The Commission will not authorise aid for export-related activities to third countries or to Member States which would be directly linked to the quantities exported, aid contingent upon the use of domestic over imported goods, or aid to establish and operate a distribution network or to cover any other expenditure linked to export activities. 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 principle does not constitute export aid.
- (29) Member States are reminded that the system of financing, for example, by parafiscal levies, should be notified, when the system forms an integral part of the aid measure (see paragraphs 41 to 44 of Case T-275/11)<sup>(18)</sup>.
- (30) The Commission will assess any aid measures not covered by these Guidelines or by any other relevant State aid rules on a case by case basis directly on the basis of Article 107(3) of the Treaty, taking into account the rules laid down in Articles 107, 108 and 109 of the Treaty, the CAP and by analogy these Guidelines, where possible. Member States notifying State aid not covered by the scope of these Guidelines will have to demonstrate that the State aid in question meets the common assessment principles as laid down in Chapter 3 of Part I of these Guidelines. The Commission will only approve such measures if the positive contribution to the development of the sector clearly outweighs the risks of distorting competition in the internal market and affecting trade between Member States.

### 2.3. Horizontal rules and aid instruments applicable to the agricultural and forestry sectors and to rural areas

- (31) In principle, to streamline State aid rules and due to the similarities between undertakings active in the agricultural and forestry sectors and in rural areas and other undertakings, the general State aid instruments laying down the criteria for compatibility of aid are applicable to the sectors covered by these Guidelines. This concerns in particular the Community guidelines on State aid for rescuing and restructuring firms in difficulty, the Framework for state aid for research and development and innovation<sup>(19)</sup> as amended or replaced, the Guidelines on State aid for environmental protection and energy 2014-2020<sup>(20)</sup> as amended or replaced, the EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks<sup>(21)</sup> as amended or replaced, the Guidelines on State aid to promote risk finance investments<sup>(22)</sup> as amended or replaced, the Communication from the Commission - Criteria for the compatibility analysis of training State aid cases subject to individual notification<sup>(23)</sup> as amended or replaced, the Communication from the Commission - Criteria for the compatibility analysis of State aid to disadvantaged and disabled workers subject to individual notification<sup>(24)</sup> as amended or replaced and the instruments related to services of general economic interest<sup>(25)</sup>.

<sup>(18)</sup> Case T-275/11 *Télévision française 1 (TF1) v Commission* [2013] ECR; See inter alia. Case C-174/02 *Streekgewest Westelijk Noord-Brabant* [2005], ECR I-85; Case C-526/04 *Laboratoires Boiron* [2006] ECR I-7529; Joint Cases C-78/90, C-79/90, C-80/90, C-81/90, C-82/90 et C-83/90 *Compagnie commerciale de l'Ouest v. Receveur principal des douanes de La Pallice-Port* [1992], ECR I-1847; Case C-234/99 *Niels Nygård v Svineafgiftsfonden, and Ministeriet for Fødevarer* [2002] ECR I-3657.

<sup>(19)</sup> OJ C 198, 27.6.2014, p. 1.

<sup>(20)</sup> The text as adopted on 9.4.2014 is available at: [http://ec.europa.eu/competition/sectors/energy/legislation\\_en.html](http://ec.europa.eu/competition/sectors/energy/legislation_en.html)

<sup>(21)</sup> OJ C 25, 26.1.2013, p. 1.

<sup>(22)</sup> OJ C 19, 22.1.2014, p. 4.

<sup>(23)</sup> OJ C 188, 11.8.2009, p. 1.

<sup>(24)</sup> OJ C 188, 11.8.2009, p. 6.

<sup>(25)</sup> See Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3) and European Union framework for State aid in the form of public service compensation (OJ C 8, 11.1.2012, p. 15).

- (32) The above horizontal instruments apply to the production, processing and marketing of agricultural products unless the present Guidelines provide specific rules. These Guidelines provide for specific environmental aid measures, such as aid for agri-environment-climate and animal welfare commitments (Section 1.1.5 of Part II), aid for disadvantages related to Natura 2000 areas and to the Water Framework Directive<sup>(26)</sup> (Section 1.1.6 of Part II) and aid for organic farming (Section 1.1.8 of Part II). Aids for investments to pursue environmental objectives in the field of primary agricultural production are evaluated in accordance with the rules set out in Section 1.1.1.1. of Part II of these Guidelines. Aid for environmental protection in favour of undertakings active in the processing of agricultural products and the marketing of agricultural products will be declared compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the conditions of the Guidelines on State aid for environmental protection and energy 2014-2020. Aid for investments in energy saving, biofuel and energy from renewable sources are excluded from the scope of Chapters 2 and 3 of Part II of these Guidelines as such aid should comply with the Guidelines on State aid for environmental protection and energy 2014-2020, unless it is exempted from notification obligation. However aid for investments linked to primary agricultural production related to the production of energy from renewable sources or to the production of biofuels on holdings can fall within the scope of these Guidelines provided that such production does not exceed the average annual consumption of fuels or energy of the agricultural holding in question (Section 1.1.1.1).
- (33) The Guidelines on regional State aid for 2014-2020<sup>(27)</sup> do not apply to aid for the production of primary agricultural products due to the specificities of the sector. They do however apply to the processing of agricultural products and the marketing of agricultural products to the extent set out in these Guidelines.
- (34) Both the general State aid rules and the more specific provisions of these Guidelines may concern undertakings active in the forestry sector or in rural areas. Where applicable, aid to undertakings active in the forestry sector or in rural areas may also be found compatible under the conditions and in compliance with general Union rules on State aid (in particular, with the Guidelines on regional State aid for 2014-2020, the Framework for state aid for research and development and innovation and the Guidelines on State aid for environmental protection and energy 2014-2020).

#### 2.4. Definitions

- (35) For the purposes of these Guidelines:

1. 'aid' means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;
2. 'agricultural sector' means all undertakings active in primary production, processing and marketing of agricultural products;
3. 'agricultural product' means the products listed in Annex I to the Treaty, except fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council<sup>(28)</sup>;
4. '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/or for an indefinite amount;

<sup>(26)</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 ('the Water Framework Directive') (OJ L 327, 22.12.2000, p. 1).

<sup>(27)</sup> OJ C 209, 23.7.2013, p.1.

<sup>(28)</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).

5. 'outermost regions' means the regions referred to in the first paragraph of Article 349 of the Treaty;
6. 'smaller Aegean islands' means the smaller islands referred to in Article 1(2) of Regulation (EU) No 229/2013<sup>(29)</sup>;
7. 'rural development programme' means a rural development programme as provided for in Article 6(1) of Regulation (EU) No 1305/2013;
8. 'agricultural activity' means the production, processing and marketing of agricultural products;
9. 'forest' means an area of land spanning more than 0,5 hectares with trees higher than 5 meters and a canopy cover of more than 10 %, or trees able to reach these thresholds in situ; and does not include land that is predominantly under agricultural or urban land use. A Member State or region may choose to apply another forest definition based on existing national legislation or inventory system. The Member States or regions must provide such definition in the notification and when it relates to a rural development measure, it should be provided in the rural development programme;
10. '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;
11. '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;
12. 'marketing of agricultural products' means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the 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;
13. 'SME' or 'micro, small and medium-sized enterprises' means undertakings fulfilling the criteria laid down in Annex I to Commission Regulation (EU) No 702/2014<sup>(30)</sup>;
14. 'large enterprises' means undertakings not fulfilling the criteria laid down in Annex I to Regulation (EU) No 702/2014;
15. 'undertaking in difficulty' means an undertaking in respect of which at least one of the following circumstances occurs:
  - (a) in the case of limited liability company (other than SME that has been in existence for less than three years), where 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 provision 'limited liability company' refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU of the European Parliament and of the Council<sup>(31)</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), where 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 provision, '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 of Directive 2013/34/EU;

<sup>(29)</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).

<sup>(30)</sup> Commission Regulation (EU) No 702/2014 of 25 June 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 Functioning of the European Union and repealing Commission Regulation (EC) No 1857/2006 (OJ L 193, 1.7.2014, p. 1).

<sup>(31)</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).

- (c) where 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) where 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, where, 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.
16. 'agricultural holding' means a unit comprising of land, premises and facilities used for primary agricultural production;
17. 'aid intensity' means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;
18. 'individual aid' means ad hoc aid and awards of aid to individual beneficiaries on the basis of an aid scheme;
19. 'ad hoc aid' means aid not granted on the basis of an aid scheme;
20. '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;
21. '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.
22. 'producer group and organisation' means a group or organisation set up for the purpose of:
- (a) adapting the production and output of producers who are members of such producer group or organisation to market requirements, or
  - (b) jointly placing goods on the market, including the preparation for sale, centralisation of sales and supply to bulk buyers; or
  - (c) establishing common rules on production information, with particular regard to harvesting and availability; or
  - (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;
23. '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;
24. 'plant pest' means harmful organisms as defined in point (e) of Article 2(1) of Council Directive 2000/29/EC<sup>(32)</sup>;
25. '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. The purchase of land referred to in point (144)(a) second sentence, (502)(a) second sentence and (635)(a) where the eligible costs for the land purchase equals 100 % of the eligible investment costs, is considered to be the start of works on project or activity;
26. '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;

<sup>(32)</sup> Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p.1).

27. '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;
28. 'protected animal' means any animal protected either by Union or by national legislation;
29. 'young farmer' means a person who is no more than 40 years of age on the date of submitting the aid application, possesses adequate occupational skills and competences and is setting up for the first time in an agricultural holding as head of that holding;
30. 'large investment project' means an investment in rural areas, as referred to in Chapter 3 of Part II of these Guidelines, with eligible costs exceeding EUR 50 million, calculated at prices and exchange rates on the date of granting the aid;
31. 'adjusted aid amount' means the maximum permissible aid amount for a large investment project, calculated according to the following formula: maximum aid amount =  $R \times (50 + 0,50 \times B + 0,34 \times C)$ , where R is the maximum aid intensity applicable in the area concerned, excluding the increased aid intensity for SMEs. B is the part of eligible costs between EUR 50 million and EUR 100 million. C is the part of eligible costs above EUR 100 million;
32. 'tangible assets' means assets consisting of land, buildings and plant, machinery and equipment;
33. 'intangible assets' means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;
34. '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 the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry;
35. 'other adverse climatic event' means unfavourable weather conditions which do not meet the conditions of point (35)34 of these Guidelines;
36. 'environmental incident' means a specific occurrence of pollution, contamination or degradation in the quality of the environment which is related to a specific event and is of limited geographical scope, which destroys more than 30 % of the average annual production of the undertaking active in the agricultural sector in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry. It does not cover general environmental risks not connected with a specific event, such as climate change or atmospheric pollution;
37. 'catastrophic event' means an unforeseen event of biotic or abiotic nature caused by human action that leads to important disturbances in forest structures, eventually causing important economic damage to the forestry sectors;
38. '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; consequently, 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;
39. 'non-productive investment' means an investment which does not lead to a significant increase in the value or profitability of the holding;
40. 'investments to comply with an Union standard' means investments made to comply with an Union standard after the expiry of the transitional period provided for in Union legislation;
41. 'advice' means complete advice given in the framework of one and the same contract;
42. 'herd book' means any book, register, file or data medium:
  - (a) which is maintained by a breeders' organisation or association officially recognised by a Member State in which the breeders' organisation or association was constituted; and
  - (b) in which pure-bred breeding animals of a given breed are entered or registered with mention of their ancestors;
43. 'active farmer' means an active farmer within the meaning of Article 9 of Regulation (EU) No 1307/2013;

44. 'less developed regions' means regions where the gross domestic product (GDP) per capita is less than 75 % of the average GDP of the EU-27;
45. 'EU-25' means the 25 Member States of the Union who were Member States of the Union in May 2005;
46. 'EU-27' means the 27 Member States of the Union who were Member States of the Union in January 2007;
47. 'capital works' means works, undertaken by the farmer personally or by the farmer's workers that create an asset;
48. 'small-scale infrastructure' means infrastructure with eligible costs limited to EUR 2 million;
49. 'food based biofuel' means a biofuel produced from cereal and other starch rich crops, sugars and oil crops as defined in the Commission's Proposal for a Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources <sup>(33)</sup>;
50. 'agricultural area' means any area taken up by arable land, permanent grassland and permanent pasture or permanent crops as defined in Article 4 of Regulation (EU) No 1307/2013;
51. 'other land manager' means an undertaking which manages land other than an undertaking active in the agricultural sector;
52. '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;
53. for the purposes of conservation of genetic resources in agriculture and in forestry :
- (a) 'in situ conservation' in agriculture means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species or feral breeds in their natural surroundings and, in the case of domesticated animal breeds or cultivated plant species, in the farmed environment where they have developed their distinctive properties;
  - (b) 'in situ conservation' in forestry 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;
  - (c) 'on-farm or on-forest holding conservation' means in situ conservation and development at farm or forest holding level;
  - (d) 'ex situ conservation' means the conservation of genetic material for agriculture or forestry outside their natural habitat;
  - (e) 'ex situ collection' means a collection of genetic material for agriculture or forestry maintained outside their natural habitat;
54. '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>(34)</sup>;
55. '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;
56. 'short supply chain' means a supply chain involving a limited number of economic operators, committed to co-operation, local economic development, and close geographical and social relations between producers, processors and consumers;

<sup>(33)</sup> COM (2012) 595, 17.10.2012.

<sup>(34)</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).

57. 'member of a farm household' means a natural or legal person or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, with the exception of farm workers. Where a legal person or a group of legal persons is considered as a member of the farm household, that member must exercise an agricultural activity on the farm at the time of the aid application;
58. 'cluster' means a grouping of independent undertakings, including start-ups, small, medium and large enterprises as well as advisory bodies and/or research organisations designed to stimulate economic/innovative activity by promoting intensive interactions, the sharing of facilities and the exchange of knowledge and expertise, as well as contributing effectively to knowledge transfer, networking and information dissemination among the undertakings in the cluster;
59. 'small operator' means a microenterprise as defined in Commission Recommendation 2003/361<sup>(35)</sup>, or a natural person not engaged in economic activity at the moment of applying for aid;
60. 'local markets' means:
- (a) markets in radius of 75 km from the farm of origin of the product, within which the activities of processing and sale to the final consumer have to take place; or
  - (b) markets for which the respective rural development programme sets out a kilometric radius from the farm of origin of the product, within which the activities of processing and sale to the final consumer have to take place; or
  - (c) markets for which the respective rural development programme sets out an convincing alternative definition;
61. '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 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>(36)</sup>;
62. 'research and knowledge-dissemination organisation' means an entity (such as universities or research institutes, technology-transfer agencies, innovation intermediaries, research-oriented physical and/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, as defined in the Framework for state aid for research and development and innovation or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such entity also pursues economic activities, the financing, the costs and the revenues of economic activities must be accounted for separately. Undertakings that can exert influence upon such an entity, in the quality of, for example, shareholders or members, may not enjoy preferential access to its research capacities of such an entity or to the results generated by it;
63. '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;
64. 'sustainable forest management' means using forests and forest land in a way and at a rate that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil now and in the future relevant ecological, economic and social functions at local, national and global levels and that does not cause damage to other ecosystems;
65. 'agro-forestry systems' means land use systems in which trees are grown in combination with agriculture on the same land;

<sup>(35)</sup> Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

<sup>(36)</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).



66. '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;
67. 'trees for short rotation coppicing' means tree species of CN code 0602 90 41 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 as established in Article 4(1)(k) of Regulation (EU) No 1307/2013;
68. 'sparsely populated areas' means areas accepted by the Commission as such in the individual decisions on regional aid maps for the period 1 July 2014 to 31 December 2020;
69. "'a" areas' means those areas designated in an approved regional aid map for the period from 1 July 2014 to 31 December 2020 in application of the provisions of Article 107(3)(a) of the Treaty;
70. "'c" areas' means those areas designated in an approved regional aid map for the period 1 July 2014 to 31 December 2020 in application of the provisions of Article 107(3)(c) of the Treaty;
71. 'NUTS 3 area' means a region specified at level 3 of a common classification of territorial units for statistics in accordance with Regulation (EC) No 1059/2003 of the European Parliament and of the Council<sup>(37)</sup>;
72. 'non-predefined "c" areas' means areas that a Member State at its own discretion designate as 'c' areas provided that the Member States demonstrates that such areas fulfil certain socioeconomic criteria and that those areas are designated in an approved regional aid map for the period of 1 July 2014 to 31 December 2020 in application of the provisions of Article 107(3)(c) of the Treaty;
73. 'former "a" areas' means those areas designated as 'a' areas in an approved regional map for the period from 1 January 2011 to 30 June 2014;
74. 'regional aid map' means the list of areas designated by a Member State in accordance with the conditions laid down in the Guidelines on regional State aid for 2014-2020 and approved by the Commission;
75. 'processing of agricultural products into non-agricultural products' means any operation on an agricultural product resulting in a product which is not an agricultural product;
76. 'evaluation plan' means a document containing at least the following minimum elements: the objectives of the aid scheme to be evaluated; the evaluation questions; the results indicators; the envisaged methodology to conduct the evaluation; the data collection 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.

## 2.5. Notifiable aid

- (36) Where the conditions of Article 107(1) of the Treaty are met, Member States must notify to the Commission aid in the agricultural and forestry sectors and in rural areas pursuant to Article 108(3) of the Treaty and shall not put the proposed measure into effect until this procedure resulted in a final decision, with the exception of measures that fulfil the conditions laid down in a block exemption regulation.
- (37) Individual aid granted on the basis of an aid scheme remains subject to the notification obligation pursuant to Article 108(3) of the Treaty, if the aid exceeds the following notification thresholds:
  - (a) for individual investment aid for the processing of agricultural products and the marketing of agricultural products under Section 1.1.1.4 of Part II of these Guidelines: eligible costs in excess of EUR 25 million, or where the gross grant equivalent exceeds EUR 12 million;

<sup>(37)</sup> Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

- (b) for aid for promotion campaigns under Section 1.3.2. of Part II of these Guidelines: promotion campaigns with an annual budget in excess of EUR 5 million;
- (c) for individual investment aid granted under Sections 3.1, 3.2, 3.6 and 3.10 of Chapter 3 of Part II of these Guidelines:

Aid intensity	Notification threshold
10 %	EUR 7,5 million
15 %	EUR 11,25 million
25 %	EUR 18,75 million
35 %	EUR 26,25 million
50 % and above	EUR 37,5 million

### **Chapter 3. Common assessment principles**

- (38) To assess whether a notified aid measure can be considered compatible with the internal market under Article 107(3) of the Treaty, the Commission generally analyses whether the design of the aid measure ensures that the positive impact of the aid towards an objective of common interest exceeds its potential negative effects on trade and competition.
- (39) The Communication on State aid modernisation called for the identification and definition of common principles applicable to the assessment of compatibility of all the aid measures carried out by the Commission. For this purpose, the Commission will consider an aid measure compatible with the Treaty only if it satisfies each of the following criteria:
- (a) contribution to a well-defined objective of common interest: a State aid measure must aim at an objective of common interest in accordance with Article 107(3) Treaty;
  - (b) need for State intervention: a State aid measure must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself, by remedying a well-defined market failure;
  - (c) appropriateness of the aid measure: the proposed aid measure must be an appropriate policy instrument to address the objective of common interest;
  - (d) incentive effect: the aid must change the behaviour of the undertaking(s) concerned in such a way that it engages in additional activity which it would not carry out without the aid or it would carry out in a restricted or different manner;
  - (e) proportionality of the aid (aid limited to the minimum necessary): the aid amount must be limited to the minimum needed to induce the activity in the sector concerned;
  - (f) avoidance of major undue negative effects on competition and trade between Member States: the negative effects of aid must be sufficiently limited, so that the overall balance of the measure is positive;
  - (g) transparency of aid: Member States, the Commission, economic operators, and the public must have easy access to all relevant acts and to pertinent information about the aid granted thereunder.
- (40) The overall balance of certain categories of schemes may further be made subject to a requirement of ex post evaluation as described in points (720) to (723). In such cases, the Commission may limit the duration of those schemes (normally to four years or less) with a possibility to re-notify their prolongation afterwards.

- (41) Moreover, if a State aid measure 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 law, the aid cannot be declared compatible with the internal market<sup>(38)</sup>. In particular, the following aid is considered to entail a non-severable violation of EU law:
- (a) aid the granting of which is subject to the obligation for the beneficiary to have its headquarters in the relevant Member State or to be predominantly established in that Member State;
  - (b) aid the granting of which is subject to the obligation for the beneficiary to use nationally produced goods or national services;
  - (c) aid restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.
- (42) The common assessment principles have to be seen in the specific context of the CAP. Therefore, these general competition policy considerations apply to all aid under these Guidelines, unless derogations are provided for in Sections 3.1. to 3.7 of Part I of these Guidelines, due to particular considerations applicable in the agricultural sector.

### 3.1. Contribution to a common objective

- (43) The objectives of aid in the agricultural and forestry sectors and in rural areas are to ensure viable food production and to promote the efficient and sustainable use of resources in order to achieve intelligent and sustainable growth.
- (44) Aid in the agricultural and forestry sectors and in rural areas should relate closely to the CAP, should be consistent with the rural development objectives referred to in point (10) of these Guidelines and should be compatible with the rules on the common organisation of the markets in agricultural products.

#### Rural development objectives

- (45) The rural development objectives taken jointly with the general principles on State aid will be taken into account for the assessment of compatibility of the aid.
- (46) The Commission considers that measures, implemented pursuant to and in conformity with Regulation (EU) No 1305/2013 and its implementing and delegated acts or as an additional national financing in the framework of a rural development programme, are per se consistent with and contribute to the objectives of rural development.
- (47) As regards rural development like measures financed exclusively from national funds, in order to ensure coherence with the rural development measures co-financed by the EAFRD under rural development programmes, Member States should demonstrate how the State aid under consideration fits into and is consistent with the relevant rural development programmes. Every notification must be accompanied by such documentation.
- (48) The Commission considers that the principle of contribution to the objectives of rural development is met regarding the aid measures in Sections 1.2, 1.3, 2.8 and 2.9 of Part II of these Guidelines, which are outside the scope of rural development, since the Commission has gained sufficient experience as to the contribution of those measures to the rural development objectives.

#### Additional conditions for individually notifiable aid on the basis of a scheme

- (49) When awarding aid to individually notifiable investment projects on the basis of a scheme, the granting authority must demonstrate that the selected project will contribute towards the objective of the scheme and thus towards the objectives of aid in the agricultural and forestry sectors and in rural areas. For this purpose, Member States can rely on the information provided by the applicant for aid where the positive effects of the investment must be described.

<sup>(38)</sup> See for instance Case C-156/98 Germany v Commission [2000] ECR I-6857, paragraph 78 and Case C-333/07 Régie Networks v Rhone Alpes Bourgogne [2008] ECR I-10807, paragraphs 94 to 116.

### Rules of the common organisation of the markets in agricultural products

- (50) Due to the specificity of the agricultural sector<sup>(39)</sup>, although State aid rules are generally applicable to this sector, their application nevertheless remains subject to the provisions laid down in the regulations of the first pillar of the CAP. In other words, Member States' recourse to State aid measures cannot take precedence over Regulation (EU) No 1308/2013<sup>(40)</sup>. Therefore, the Commission will not authorise State aid which is incompatible with the provisions governing the common organisation of the market or which would interfere with the proper functioning of the common organisation.
- (51) Further, specific conditions on the compliance with the principles of the common organisation of the markets in agricultural products are set out in Section 1.1.1.1 on investment aid on agricultural holdings linked to the primary agricultural production, in Section 1.1.4. on start-up aid for producer groups and organisations and in Section 1.2.2. on aid for closing of production capacity, of Part II of these Guidelines.

### Environmental objectives

- (52) Article 11 of the Treaty provides that 'Environmental protection requirements must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development.' The legal basis for the substantial environmental measures in the first and second pillars of the CAP is Article 11 of the Treaty. In line with this requirement, the Union's priorities for rural development should be pursued in the framework of sustainable development. The Union's promotion of the aim of protecting the environment as set out in Article 11 of the Treaty also takes into account the polluter pays principle<sup>(41)</sup>. Therefore, particular attention should be given to environmental issues in future State aid notifications. All State aid notifications should in the future contain an assessment on whether or not the aided activity is expected to have any environmental impact. In cases where there is an environmental impact, State aid notifications should provide information demonstrating that the aid measure will not result in an infringement of applicable Union environmental protection legislation. For example, in the case of an aid scheme for investments which are intended to increase production, and which involve an increased use of scarce resources or an increase in pollution, it will be necessary to show that the scheme will not result in an infringement of the applicable Union legislation, including environmental protection legislation<sup>(42)</sup>, and the Good Agricultural and Environmental Conditions (GAECs) of cross-compliance under Regulation (EU) No 1307/2013. Where State aid is notified, which forms part of the rural development programme, the environmental requirement for such State aid measure should be identical with the environmental requirement of the rural development measure.

### **3.2. Need for State intervention**

- (53) In order to assess whether State aid is necessary to achieve the objective of common interest, it is necessary first to diagnose the problem to be addressed. State aid should be targeted towards situations where it can bring about a material improvement that the market cannot deliver on its own.
- (54) State aid measures can indeed, under certain conditions, correct market failures thereby contributing to the efficient functioning of markets and enhancing competitiveness. Furthermore, where markets provide efficient outcomes but these are deemed unsatisfactory from an equity or cohesion point of view, State aid may be used to obtain a more desirable, equitable market outcome.

<sup>(39)</sup> See points (13) and (14) of these Guidelines.

<sup>(40)</sup> Judgement of the European Court of Justice in Case 177/78 Pigs and Bacon Commission v. McCarren [1979] ECR 2161, paragraph 11.

<sup>(41)</sup> Recital 5 of Regulation (EU) No 1305/2013.

<sup>(42)</sup> As regards to Union environmental legislation: Directive 2009/147/EC (OJ L 20, 26.1.2010, p. 7) ('the Birds Directive'); Council Directive 92/43/EEC of 21 May 1992 (OJ L 206, 22.7.1992, p. 7) ('the Habitats Directive'); Council Directive 91/676/EEC (OJ L 375, 31.12.1991, p. 1) ('the Nitrates Directive'); the Water Framework Directive; Directive 2006/118/EC (OJ L 372, 27.12.2006, p. 19) ('the Groundwater Directive'); 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) ('the Sustainable Use of Pesticides Directive'); 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); Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1) ('the Environmental Impact Assessment Directive'), and where applicable Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30) ('the Strategic Environmental Assessment Directive').

- (55) For the purposes of these Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II of these Guidelines. Therefore, such aid should be considered necessary to achieve the objectives of common interest specified under Section 3.1. of Part I of these Guidelines.

### 3.3. Appropriateness of aid

- (56) The proposed aid measure must be an appropriate policy instrument to address the policy objective concerned. An aid measure will not be considered compatible if other less distortive policy instruments or other less distortive types of aid make it possible to achieve the same positive contribution to the objectives of CAP and in particular of rural development. It is important to keep in mind that there may be other, better placed instruments such as regulation, market-based instruments, infrastructure development and improvement in the business environment to achieve those objectives.

#### Appropriateness among alternative policy instruments

- (57) The Commission considers that aid granted in the agricultural and forestry sectors and in rural areas, which fulfils the specific conditions laid down in the relevant Sections of Part II of these Guidelines, is an appropriate policy instrument.
- (58) Where a Member State decides to put in place a rural development like aid measure financed exclusively from national funds, when at the same time the same measure is provided for in the relevant rural development programme, the Member State should demonstrate the advantages of such a national aid instrument compared to the rural development programme measure at stake.

#### Appropriateness among different aid instruments

- (59) Aid can be granted in various forms. The Member State should however ensure that the aid is granted in the form that is likely to generate the least distortions of trade and competition.
- (60) Where a specific form is foreseen for an aid measure described in Part II of these Guidelines, such form is considered as an appropriate aid instrument for the purpose of these Guidelines.
- (61) The Commission further considers as regards rural development measures, co-financed by EAFRD or granted as an additional financing for such co-financed rural development measures, that aid granted in the form provided for in the respective rural development measure is an appropriate aid instrument.
- (62) As regards investment aid not covered by Regulation (EU) No 1305/2013 as part of the rural development programme or as additional financing for such a rural development measure, where the aid is granted in forms that provide a direct pecuniary advantage (for example, direct grants, exemptions or reductions in taxes, social security or other compulsory charges, etc.), the Member State must demonstrate why other potentially less distortive forms of aid such as repayable advances or forms of aid that are based on debt or equity instruments (for example, low-interest loans or interest rebates, State guarantees or an alternative provision of capital on favourable terms) are less appropriate.
- (63) With regard to forestry measures in Section 2.8 of Part II of these Guidelines, Member States must demonstrate that the ecological, protective and recreational objectives they are aiming for cannot be achieved with the rural development like forestry measures in Chapters 2.1 to 2.7 of Part II of these Guidelines.
- (64) In the case of several categories of aid, such as aid towards the costs of market research activities, product conception and design and for the preparation of applications for the recognition of quality schemes, aid for knowledge transfer and information actions, aid for advisory services, aid for farm replacement services, aid for promotion measures, aid to compensate for the costs of the prevention and eradication of animal diseases and plant pest and aid to the livestock sector, the aid must be granted to the final aid beneficiaries indirectly, in kind, by means of subsidised services. In these cases the aid is paid to the provider of the service or activity in question.

- (65) The compatibility assessment of an aid measure with the internal market is without prejudice to the applicable public procurement rules and to the principles of transparency and openness and non-discrimination in the selection process of a service provider.

#### 3.4. Incentive effect and need for aid

- (66) Aid in the agricultural and forestry sectors and in rural areas can only be found compatible with the internal market, if it has an incentive effect. An incentive effect is present when the aid changes the behaviour of an undertaking in such a way that it engages in additional activity contributing to the development of the sector which it would not have engaged in without the aid or in which would only have engaged in a restricted or different manner. The aid must however not subsidise the costs of an activity that an undertaking would have incurred in any event and must not compensate for the normal business risk of an economic activity.
- (67) Unless exceptions are expressly provided for in Union legislation or in these Guidelines, unilateral State aid measures which are simply intended to improve the financial situation of undertakings but which in no way contribute to the development of the sector, and in particular aid which is granted solely on the basis of price, quantity, unit of production or unit of the means of production are considered to constitute operating aid which is incompatible with the internal market. Furthermore, by its very nature, such aid is also likely to interfere with the mechanisms regulating the organisation of the internal market.
- (68) These same reasons have led the Commission to authorise aid to facilitate compliance with obligatory standards only to the extent that it meets the objectives of rural development policy.
- (69) For the same grounds, aid granted under Sections 1.2. and 2.8.5 of Part II of these Guidelines should be limited to helping undertakings active in the agricultural and forestry sectors facing various difficulties despite having undertaken reasonable efforts to minimise such risks. State aid should not have as an effect to entice undertakings into taking unnecessary risk. Undertakings active in the agricultural and forestry sectors should themselves bear the consequences of imprudent choices of production methods or products.
- (70) For the same reasons, the Commission considers that aid does not present an incentive for the beneficiary wherever work on the relevant project or activity has already started prior to the aid application by the beneficiary to the national authorities.
- (71) The aid application must include at least the applicant's name and the size of the undertaking, a description of the project or activity, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs.
- (72) In addition, large enterprises must describe in the application, the situation without the aid, which situation is referred to as the counterfactual scenario or alternative project or activity and submit documentary evidence in support of the counterfactual described in the application.
- (73) When receiving an application, the granting authority must carry out a credibility check of the counterfactual and confirm that the aid has the required incentive effect. A counterfactual is credible if it is genuine and relates to the decision-making factors prevalent at the time of the decision by the beneficiary regarding the project or activity concerned.
- (74) By derogation from points (70) to (73), aid in the form of tax advantages granted to SMEs is deemed to have an incentive effect if the aid scheme establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State and if the aid scheme has been adopted and in force before work on the aided project or activity has started. The latter requirement does not apply in the case of fiscal successor schemes provided the activity was already covered by the previous schemes in the form of tax advantages.
- (75) By way of derogation from points (70) to (74), the following categories of aid of these Guidelines are not required or are deemed to have an incentive effect:
- (a) aid schemes for land consolidation in accordance with Section 1.3.4. and Section 2.9.2. and aid schemes with ecological, protective and recreational objectives in accordance with Section 2.8 of Part II 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;

- (ii) the aid scheme has been adopted and in force before eligible costs under Sections 1.3.4, 2.9.2 and 2.8. are incurred by the beneficiary; and
  - (iii) the aid scheme only covers SMEs;
- (b) aid for disadvantages related to Natura 2000 areas and to the Water framework directive granted to SMEs in accordance with Section 1.1.6 of Part II;
  - (c) aid to areas facing natural or other specific constraints in accordance with Section 1.1.7 of Part II;
  - (d) aid to make good the damage caused by natural disasters or exceptional occurrences in accordance with Section 1.2.1.1 of Part II;
  - (e) aid to compensate for the damage caused by adverse climatic events which can be assimilated to natural disaster in accordance with Section 1.2.1.2 of Part II;
  - (f) aid to compensate for the costs of the eradication of animal diseases and plant pests and for losses caused by those animal diseases and plant pests in accordance with Section 1.2.1.3 of Part II;
  - (g) aid to cover the costs of the removal and destruction of fallen stock in accordance with Section 1.2.1.4 of Part II;
  - (h) aid to compensate for the damage caused by protected animals in accordance with Section 1.2.1.5 of Part II;
  - (i) aid to make good the damage in forests caused by animals regulated by law in accordance with Section 2.8.5 of Part II;
  - (j) investment aid for meeting standards in accordance with point (148)(a) and (b);
  - (k) investment aid for meeting standards granted to SMEs in accordance with point (148)(c); investment aid for meeting standards to large enterprises in accordance with point (148)(c) may be considered to have an incentive effect, where the undertaking concerned can prove that without the aid, it would face the risk of closure.
  - (l) aid for investments in favour of conservation of cultural and natural heritage on the agricultural holding in accordance with Section 1.1.1.2 of Part II, with the exception of individual aid which exceeds EUR 500 000 per undertaking per investment project;
  - (m) aid for promotion measures in accordance with point (464)(b) and (c). and for promotion campaigns which are generic in character in accordance with point (464)(d);
  - (n) aid for research and development in the agricultural and forestry sectors in accordance with Section 1.3.6 and Section 2.9.1. of Part II;
  - (o) aid for the maintenance, restoration and upgrading of the cultural and natural heritage of villages, rural landscapes and high nature value sites in accordance with point (644)(e); this derogation does not apply to investment aid associated with the cultural and natural heritage of villages, rural landscapes and high nature value sites, which exceeds the notification thresholds set out in point (37)(c);
  - (p) aid for the drawing up and updating of plans for the development of municipalities and villages in rural areas and their basic services and of protection and management plans relating to Natura 2000 sites and other areas of high nature value, in accordance with point (644)(a);
  - (q) aid for the restoration of damage to forests from fires, natural disasters, adverse climatic events, plant pests, animal diseases, catastrophic events and climate change related events in accordance with Section 2.1.3 of Part II.

#### Additional conditions for individually notifiable investment aid

- (76) In addition to the requirements set out above, for individually notifiable investment aid, the Member State must provide clear evidence that the aid effectively has an impact on the investment choice. To allow for a comprehensive assessment, the Member State must provide not only information concerning the aided project but also a comprehensive description of the counterfactual scenario, in which no aid is granted to the beneficiary by any public authority.
- (77) The Member States are invited to rely on documents, such as official board documents, risk assessments, including the assessment of location-specific risks, financial reports, internal business plans, expert opinions and other studies related to the investment project under assessment. Documents containing information on demand forecasts, cost forecasts, financial forecasts, documents that are submitted to an investment committee and that elaborate on various investment scenarios, or documents provided to the financial institutions could help the Member States to demonstrate the incentive effect.
- (78) In this context the level of profitability may be evaluated by reference to methodologies which are standard practice in the sector concerned and which may include methods to evaluate the net present value of the project (NPV)<sup>(43)</sup>, the internal rate of return (IRR)<sup>(44)</sup> or the average return on capital employed (ROCE). The profitability of the project is to be compared with normal rates of return applied by the undertaking in other investment projects of a similar kind. Where these rates are not available, the profitability of the project is to be compared with the cost of capital of the undertaking as a whole or with the rates of return commonly observed in the sector concerned.
- (79) Where no specific counterfactual scenario is known, the incentive effect can be assumed when there is a funding gap, that is to say when the investment costs exceed the NPV of the expected operating profits of the investment on the basis of an ex ante business plan.
- (80) If the aid does not change the behaviour of the beneficiary by stimulating additional investment, it has no positive effects for development of the sector concerned. Therefore, aid will not be approved in cases where it appears that the same investment would still be pursued without the aid.

#### **3.5. Proportionality of the aid**

- (81) Aid in the agricultural and forestry sectors and in rural areas is considered to be proportionate if the aid amount per beneficiary is limited to the minimum needed to achieve the common objective aimed for.

#### Maximum aid intensities and maximum aid amounts

- (82) In principle, in order for the aid to be proportionate, the Commission considers that the aid amount should not exceed the eligible costs. This is without prejudice to rules for environmental or other public incentives that are expressly provided for in Sections 1.1.3 and 1.2.2 of Part II of these Guidelines.
- (83) In order to ensure predictability and a level playing field, in these Guidelines the Commission further applies maximum aid intensities for aid. Where the maximum aid intensity cannot be set, for example in the case of start-up aid for young farmers and the development of small farms, maximum aid amounts defined in nominal terms are set out in order to ensure the proportionality of the aid.
- (84) If the eligible costs are correctly calculated and the maximum aid intensities or maximum aid amounts set out in Part II of these Guidelines are respected, the criterion of proportionality is deemed to be fulfilled.
- (85) The maximum aid intensity and aid amount must be calculated by the granting authority when granting the aid. The eligible costs must be supported by documentary evidence which should be clear, specific and contemporary. For the purposes of calculating the aid intensity and the eligible costs, all figures used must be taken before any deduction of tax or other charge.

<sup>(43)</sup> The net present value (NPV) of a project is the difference between the positive and negative cash flows over the lifetime of the investment, discounted to their current value (typically using the cost of capital).

<sup>(44)</sup> The internal rate of return (IRR) is not based on accounting earnings in a given year, but takes into account the stream of future cash flows that the investor expects to receive over the entire lifetime of the investment. It is defined as the discount rate for which the NPV of a stream of cash flows equals zero.



- (86) Value added tax (VAT) is not eligible for aid, except where it is not-recoverable under national VAT legislation.
- (87) Where aid is granted in a form other than a grant, the aid amount is the gross grant equivalent of the aid.
- (88) Aid payable in several instalments is discounted to its value at the moment of granting the aid. The eligible costs are discounted to their value at the moment of granting the aid. The interest rate to be used for discounting purposes is the discount rate applicable on the date of granting the aid.
- (89) Where aid is granted by means of tax advantages, the discounting of aid tranches takes place on the basis of the discount rates applicable at the various times the tax advantage takes effect.
- (90) As regards investment aid in rural areas, the maximum aid intensity for large investment projects must be scaled down to the adjusted aid amount as defined in point (35).31. In addition, large investment projects cannot benefit from the increased aid intensities for SMEs.
- (91) Where commitments under Sections 1.1.5.1, 1.1.8, 2.3 and 3.4 of Part II of these Guidelines are expressed in units other than those set out in Annex II to Regulation (EU) No 1305/2013, Member States may calculate payments on the basis of those other units. In such cases, the Member States must ensure that the maximum amounts per year are complied with.
- (92) Except for aid for commitments for the rearing of local breeds in danger of being lost to farming referred to in Section 1.1.5.1, aid under Sections 1.1.5.1, 1.1.8, 2.3 and 3.4 of Part II of these Guidelines cannot be granted per livestock unit. The conversion rates of the various categories of animals to livestock units are set out in Annex II of the implementing act to Regulation (EU) No 1305/2013.
- (93) Member States may fix the aid amount for the measures or types of operations referred to in Sections 1.1.5, 1.1.6, 1.1.7, 1.1.8, 2.3, 3.4 and 3.5 of Part II of these Guidelines on the basis of standard assumptions of additional costs and income foregone. Member States should ensure that the calculations and the corresponding aid (a) contain only elements that are verifiable; (b) are based on figures established by appropriate expertise; (c) indicate clearly the source of the figures used; (d) are differentiated to take account of regional or local site conditions and actual land use, where applicable; and (e) do not contain elements linked to investment costs.
- (94) When assessing the compatibility of aid, the Commission will consider any insurance taken out, or which could have been taken out by the aid beneficiary. Regarding aid to compensate for losses caused by adverse climatic events which can be assimilated to a natural disaster, in order to avoid the risk of distorting competition, aid at the maximum aid intensity should be granted only to an undertaking that cannot be covered for such losses by insurance. This is why, in order to further improve risk management, beneficiaries must be encouraged to take out insurance wherever possible.

Additional conditions for individually notifiable investment aid and investment aid to large enterprises under notified schemes

- (95) As a general rule, individually notifiable investment aid will be considered to be limited to the minimum, if the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual scenario in the absence of aid. Likewise, in the case of investment aid granted to large enterprises under notified schemes, Member States must ensure that the aid amount is limited to the minimum on the basis of a 'net-extra cost approach'.
- (96) The aid amount should not exceed the minimum necessary to render the project sufficiently profitable, for example, it should not lead to an increase of its IRR beyond the normal rates of return applied by the undertaking concerned in other investment projects of a similar kind or, if these rates are not available, to an increase of its IRR beyond the cost of capital of the undertaking as a whole or beyond the rates of return commonly observed in the sector concerned.

- (97) For investment aid to large enterprises under notified schemes, the Member State must ensure that the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual scenario in the absence of aid. The method explained in point (96) must be used together with maximum aid intensities as a cap.
- (98) As regards individually notifiable investment aid, the Commission will verify whether the aid amount exceeds the minimum necessary to render the project sufficiently profitable, by using the method set out in point (96). Calculations used for the analysis of the incentive effect can also be used to assess if the aid is proportionate. The Member State must demonstrate the proportionality on the basis of documentation such as that referred to in point (77). This requirement does not apply to investment aid related to the primary agricultural production.

#### Cumulation of aid

- (99) Aid may be granted concurrently under several schemes or cumulated with ad hoc aid, provided that the total amount of State aid for an activity or project does not exceed the aid ceilings laid down in these Guidelines.
- (100) Aid with identifiable eligible costs may be cumulated with any other State aid, as long as those aids concern different identifiable eligible costs. Aid with identifiable eligible costs may be cumulated with 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 type of aid under these Guidelines.
- (101) Aid without identifiable eligible costs under Sections 1.1.2 and 3.3. of Part II of these Guidelines may be cumulated with any other State aid measure 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 these Guidelines or other State aid guidelines, a block exemption regulation or a decision adopted by the Commission.
- (102) State aid in favour of the agricultural sector should not be cumulated with payments referred to in Articles 81(2) and 82 of Regulation (EU) 1305/2013 in respect of the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding those laid down in these Guidelines.
- (103) 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 will 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 rate(s) laid down in the applicable rules of Union law.
- (104) Aid authorised under these Guidelines should 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 that fixed in these Guidelines.
- (105) Aid for investments aimed at the restoration of agricultural production potential as referred to in point (143)(e) should not be cumulated with aid for the compensation of material damage referred to in Sections 1.2.1.1, 1.2.1.2 and 1.2.1.3 of these Guidelines.
- (106) Double funding of agricultural practices beneficial for the climate and the environment under Sections 1.1.5.1., 1.1.6, 1.1.8 and 3.5 of Part II of these Guidelines and equivalent practices referred to in Article 43 of Regulation (EU) No 1307/2013 should be excluded. The revision clause foreseen in point (724) of these Guidelines should also ensure avoiding double funding.
- (107) Start-up aid for producer groups and organisations in the agricultural sector as referred to in Section 1.1.4 of Part II of these Guidelines should not be cumulated with aid for the setting-up of producers groups and organisations in the agricultural sector laid down in Article 27 of Regulation (EU) No 1305/2013. Start-up aid for young farmers and start-up aid for the development of small farms as referred to in Section 1.1.2 should not be cumulated with business start-up aid for young farmers or the development of small farms as referred to in Article 19(1)(a)(i) and (iii) of Regulation (EU) No 1305/2013 if such cumulation would result in an aid amount exceeding those laid down in these Guidelines.

### 3.6. Avoidance of undue negative effects on competition and trade

- (108) For the aid to be compatible, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest.

#### General considerations

- (109) In assessing the negative effects of the aid measure, the Commission will focus its analysis of the distortions of competition on the foreseeable impact the aid in the agricultural and forestry sectors and in rural areas has on competition between undertakings in the product markets affected<sup>(45)</sup>.
- (110) As a starting point, if the aid is well targeted, proportionate and limited to the net extra costs, the negative impact of the aid is softened and the risk that the aid will unduly distort competition will be more limited. Second, the Commission establishes maximum aid intensities. These constitute a basic requirement for compatibility, the aim of which is to prevent the use of State aid for projects where the ratio between aid amount and eligible costs is to be deemed very high and particularly likely to be distortive. In general, the greater the positive effects the aided project is likely to give rise to and the higher the likely need for aid, the higher the cap on aid intensity.
- (111) However, even where aid is necessary and proportionate, it may result in a change of the behaviour of the beneficiaries which distorts competition. This is more likely in the agricultural sector which differs from other markets by the specific structure of primary agricultural production that is characterized by a high number of small undertakings involved. On such markets the risk of distortion of competition is high even when only small amounts of aid are granted.
- (112) Two main potential distortions of competition and trade may be caused by aid for the agricultural and forestry sectors and for rural areas. These are product market distortions and location effects. Both types may lead to allocative inefficiencies, undermining the economic performance of the internal market and distributional concerns, in that the aid affects the distribution of economic activity across regions.
- (113) In principle, due to its positive effects on the development of the sector, the Commission considers that where an aid fulfils the conditions and does not exceed the relevant maximum aid intensities, laid down in the applicable Sections of Part II of these Guidelines, the negative effect on competition and trade is limited to the minimum.
- (114) However, because investment aid to undertakings active in the processing of agricultural products and the marketing of agricultural products and to undertakings active in other sectors, for example, in the food processing sector<sup>(46)</sup>, tends to have similar distortive effects on competition and trade, the general competition policy considerations on the effect on competition and trade should apply equally to all those sectors. Therefore, the conditions described in points (115) to (127) must be respected as regards investment aid for the processing of agricultural products and for the marketing of agricultural products, in the forestry sector and in rural areas.

<sup>(45)</sup> A number of markets may be affected by the aid, because the impact of the aid may not be restricted to the market corresponding to the activity that is supported but may extend to other markets, which are connected to that market either because they are upstream, downstream or complementary, or because the beneficiary is already present on them or may be so present in the near future.

<sup>(46)</sup> In the Community Guidelines for State aid in the agriculture and forestry sector 2007 to 2013 (OJ C 319, 27.12.2006, p. 1) rules applying to agricultural processing and marketing companies have been already harmonised with those applying to non-agricultural companies (point 17 of those Guidelines).

Investment aid schemes for the processing of agricultural products and the marketing of agricultural products, in the forestry sector and in rural areas

- (115) Aid schemes must not lead to significant distortions of competition and trade. In particular, even where distortions may be considered limited at an individual level (provided all conditions for investment aid are fulfilled), on a cumulative basis investment aid schemes might still lead to high levels of distortion. Such distortions might concern the output markets by creating or aggravating a situation of overcapacity or creating, increasing or maintaining the substantial market power of some beneficiaries in a way that will negatively affect dynamic incentives. Aid available under investment aid schemes might also lead to a significant loss of economic activity in other areas of the European Economic Area (EEA). In the case of an investment aid scheme focusing on certain sectors, the risk of such distortions is even more pronounced.
- (116) Therefore, the Member State concerned must demonstrate that any negative effects will be limited to the minimum taking into account, for example, the size of the projects concerned, the individual and cumulative aid amounts, the expected beneficiaries as well as the characteristics of the targeted sectors. In order to enable the Commission to assess the likely negative effects, the Member State is encouraged to submit any impact assessment at its disposal as well as ex-post evaluations carried out for similar predecessor schemes.

Individually notifiable investment aid for the processing of agricultural products and the marketing of agricultural products and in rural areas

- (117) In appraising the negative effects of individual investment aid, the Commission places particular emphasis on the negative effects linked with the build-up of overcapacity in declining markets, the prevention of exit, and the notion of substantial market power. These negative effects are described in points (118) to (127) and must be counterbalanced with the positive effects of the aid.
- (118) In order to identify and assess the potential distortions of competition and trade, Member States should provide evidence permitting the Commission to identify the product markets concerned (that is to say, products affected by the change in the behaviour of the aid beneficiary) and to identify the competitors and customers/consumers affected.
- (119) The Commission uses various criteria to assess those potential distortions, such as market structure of the product concerned, performance of the market (declining or growing market), process for selection of the aid beneficiary, entry and exit barriers, product differentiation.
- (120) A systematic reliance on State aid by an undertaking might indicate that the undertaking is not able to withstand competition on its own or that it enjoys undue advantages compared to its competitors.
- (121) The Commission distinguishes two main sources of potential negative effects on product markets:
- (a) cases of significant capacity expansion which leads to or deteriorates an existing situation of overcapacity, especially in a declining market; and
  - (b) cases where the aid beneficiary holds substantial market power.
- (122) In order to evaluate whether the aid may serve to create or maintain inefficient market structures, the Commission will take into account the additional production capacity created by the project and whether the market is underperforming.
- (123) Where the market in question is growing, there is normally less reason to be concerned that the aid will negatively affect dynamic incentives or will unduly impede exit or entry.
- (124) More concern is warranted when markets are in decline. In this respect the Commission distinguishes between cases for which, from a long-term perspective, the relevant market is structurally in decline (that is to say, shows a negative growth rate), and cases for which the relevant market is in relative decline (that is to say, shows a positive growth rate, but does not exceed a benchmark growth rate).

- (125) Underperformance of the market will normally be measured compared to the EEA GDP over the last three years before the start of the project (benchmark rate); it can also be established on the basis of projected growth rates in the coming three to five years. Indicators may include the foreseeable future growth of the market concerned and the resulting expected capacity utilisation rates, as well as the likely impact of the capacity increase on competitors through its effects on prices and profit margins.
- (126) In certain cases, assessing the growth of the product market in the EEA may not be appropriate to entirely assess the effects of aid, in particular if the geographic market is worldwide. In such cases, the Commission will consider the effect of the aid on the market structures concerned, in particular, its potential to crowd out producers in the EEA.
- (127) In order to evaluate the existence of substantial market power, the Commission will take into account the position of the beneficiary over a period of time before receiving the aid and the expected market position after finalising the investment. The Commission will take account of the market shares of the beneficiary, as well as of the market shares of its competitors and other relevant factors, including, for example the market structure by looking at the concentration in the market, possible barriers to entry<sup>(47)</sup>, buyer power<sup>(48)</sup> and barriers to expansion or exit.

### 3.7. Transparency

- (128) Member States must ensure the publication of the following information on a comprehensive State aid website at national or regional level:
- (a) the full text of the aid scheme and its implementing provisions or legal basis for individual aid, or a link to it;
  - (b) the identity of the granting authority/(ies);
  - (c) the identity of the individual beneficiaries, the form and amount of aid granted to each beneficiary, the date of granting, the type of undertaking (SME/ large enterprise), the region in which the beneficiary is located (at NUTS level II) and the principal economic sector in which the beneficiary has its activities (at NACE group level). Such a requirement can be waived with respect of individual aid awards not exceeding the following thresholds:
    - (i) EUR 60 000 for beneficiaries active in the primary agricultural production;
    - (ii) EUR 500 000 for beneficiaries 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.
- (129) For aid schemes in the form of tax advantages the information on individual aid amount can be provided in the following ranges (in EUR million): 0,06 – 0,5 only for primary agricultural production; 0,5-1; 1 to 2; 2 to 5; 5 to 10; 10 to 30; and 30 and more.
- (130) If the individual aid award falls within the scope of Regulation (EU) No 1305/2013 and is either co-financed by the EAFRD or granted as additional national financing for such co-financed measures, the Member State concerned may choose not to publish it on the State aid website referred to in point (128) provided that the individual aid award has already been published in accordance with Articles 111, 112 and 113 of Regulation (EU) No 1306/2013. In that case, the Member State should make a reference to the website referred to in Article 111 of Regulation (EU) No 1306/2013 on the State aid website referred to in point (128).
- (131) Such information must be published after the decision to grant the aid has been taken, must be kept for at least 10 years and be available for the general public without restrictions<sup>(49)</sup>. Member States will not be required to publish the abovementioned information before 1 July 2016<sup>(50)</sup>.

<sup>(47)</sup> These entry barriers include legal barriers (in particular intellectual property rights), economies of scale and scope, access barriers to networks and infrastructure. Where the aid concerns a market where the aid beneficiary is an incumbent, possible barriers to entry may exacerbate the potential substantial market power wielded by the aid beneficiary and thus the possible negative effects of that market power.

<sup>(48)</sup> Where there are strong buyers in the market, it is less likely that an aid beneficiary can increase prices vis-à-vis these strong buyers.

<sup>(49)</sup> This information must be published within six months from the date of granting the aid (or, for aid in the form of tax advantage, within one year from the date of the tax declaration). In the case of unlawful aid, Member States will be required to ensure the publication of this information ex post, at least within a period of six months from the date of the Commission decision. The information must be available in a format which allows data to be searched, extracted, and easily published on the internet, for instance in CSV or XML format.

<sup>(50)</sup> Publication of information on aid awards granted before 1st July 2016 and, for fiscal aid, publication for aid claimed or granted before 1st July 2016, will not be required.

- (132) For reasons of transparency Member States must carry out reporting and revision as required in Chapter 2 of Part III of these Guidelines.

## **PART II. CATEGORIES OF AID**

### ***Chapter 1. Aid in favour of undertakings active in the primary production, processing and marketing of agricultural products***

#### **1.1. Rural development measures**

##### **1.1.1. Aid for investment**

- (133) This Section applies to investment in agricultural holdings linked to the primary agricultural production, to investment in connection with the processing of agricultural products and the marketing of agricultural products.
- (134) All aid for investment under Sections 1.1.1.1, 1.1.1.2, 1.1.1.3, and 1.1.1.4. of Part II of these Guidelines must comply with the following condition: where a common market organisation, including direct support schemes, financed by the European Agricultural Guarantee Fund (EAGF) places restrictions on the production or limitations on Union support at the level of individual undertakings, holdings or processing plants, no investment which would increase production beyond those restrictions or limitations may receive State aid support.
- 1.1.1.1. Aid for investment in tangible assets and intangible assets on agricultural holdings linked to primary agricultural production**
- (135) The Commission will consider aid for investment in tangible assets and intangible assets on agricultural holdings linked to primary agricultural production compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, the general condition for investment aid set out in point (134) of these Guidelines and with the following conditions.
- (136) This Section applies to aid for investments in tangible assets and intangible assets on agricultural holdings linked to the primary agricultural production. The investment is carried out by one or more beneficiaries or concerns a tangible asset or intangible asset used by one or more beneficiaries.
- (137) This Section also applies to investment in tangible assets and intangible assets linked to the production of biofuels or to the production of energy from renewable sources on holdings, which fulfils the following conditions:
- (a) where the investment is made for the production of biofuels within the meaning of Directive 2009/28/EC<sup>(51)</sup> on agricultural holdings, renewable energy production facilities are eligible for aid only if their production capacity is no more than equivalent to the annual average transport fuel consumption of the agricultural holding; the produced biofuel should not be sold on the market;
  - (b) where the investment is made for the production of thermal energy and/or electricity from renewable sources on agricultural holdings, the renewable energy production facilities are eligible for aid only if the aim is to serve their own energy needs and their production capacity is no more than equivalent to the combined average annual energy consumption of thermal energy and electricity on the agricultural holding, including the farm household; regarding electricity, the selling of electricity is allowed into the grid as far as the annual self-consumption limit is respected.
- (138) Where more than one agricultural holding carry out the investment for the production of energy from renewable sources with the aim to serve their own energy needs or for the production of biofuels on holdings, the annual average consumption is accumulated to the amount equivalent to the average annual consumption of all beneficiaries.
- (139) Member States must require compliance with minimum standards for energy efficiency for investments in renewable energy infrastructure that consume or produce energy, where such standards exist at national level.
- (140) Investments in installations, the primary purpose of which is electricity production from biomass, are not be eligible for aid unless a minimum percentage of heat energy is utilised, to be determined by the Member States.

<sup>(51)</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

- (141) Member States must establish thresholds for the maximum proportions of cereals and other starch rich crops, sugar and oil crops used for bioenergy production, including biofuels, for different types of installations. Aid to bioenergy projects must be limited to bioenergy meeting the applicable sustainability criteria laid down in Union legislation including Article 17(2) to (6) of Directive 2009/28/EC of the European Parliament and of the Council.
- (142) If the production capacity of the installation exceeds the average annual consumption of the beneficiary or beneficiaries as referred to in points (137) and (138) of these Guidelines, Member States must comply with the conditions laid down in the Guidelines on State aid for environmental protection and energy 2014-2020 unless such aid is exempt from notification obligation.
- (143) The investment must 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) the improvement of the natural environment, hygiene or animal welfare standards, provided that the investment concerned aims at going beyond the Union standard in force;
  - (c) the creation and improvement of infrastructure related to the development, adaptation and modernisation of agriculture, including access to farm land, land consolidation and land improvement, the supply and saving of energy and water;
  - (d) the achievement of agri-environment-climate objectives, including biodiversity conservation status of species and habitats as well as enhancing the public amenity value of a Natura 2000 area or other high natural value systems, as long as the investments are non-productive;
  - (e) the restoration of agricultural production potential damaged by natural disasters, exceptional occurrences or adverse climatic events which can be assimilated to a natural disaster, animal diseases and plant pests, protected animals and the prevention and risk mitigation of damage caused by those before-mentioned events and factors;
  - (f) meeting standards under the conditions specified in point (148) below.

#### Eligible costs

(144) The aid covers the following eligible costs:

- (a) 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; in exceptional and duly justified cases, a higher percentage may be permitted for operations concerning environmental conservation;
- (b) the purchase or lease purchase of machinery and equipment up to the market value of the assets;
- (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 remain eligible costs even where based on their results, no expenditure under point (a) and (b) is incurred;
- (d) the acquisition or development of computer software and acquisition of patents, licences, copyrights and trademarks;
- (e) expenses for non-productive investments linked to the objectives referred to in point (143)(d) above;
- (f) in the case of investment aiming at the restoration of agricultural production potential damaged by natural disasters, exceptional occurrences or adverse climatic events which can be assimilated to a natural disaster, animal diseases or plant pests and protected animals the eligible costs may include the costs incurred for restoring the production potential up to the level as it was at before the occurrence of those events;

- (g) in the case of investments aiming at the prevention of damage caused by natural disasters, exceptional occurrences, adverse climatic events which can be assimilated to a natural disaster, animal diseases and plant pests and by protected animals, the eligible costs may include the costs of specific prevention actions aiming at reducing the consequences of such probable events.
- (145) Aid must not be granted in respect of the following:
- (a) the purchase of production rights, payment entitlements and annual plants;
  - (b) the planting of annual plants;
  - (c) the purchase of animals;
  - (d) investments to comply with Union standards in force;
  - (e) costs, other than those referred to (144) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges
  - (f) working capital.
- (146) By derogation from point (145)(c) aid may be granted for the purchase of animals carried out for the objective of point (143)(e) of these Guidelines.
- (147) By way of derogation from point (145)(c) aid might be granted for the purchase of breeding animals for the improvement of the genetic quality of the herd, provided that it complies with the following conditions:
- (a) the Commission considers that the improvement of the genetic quality of herds can in general be achieved through artificial insemination with genetic material of high quality animals. However, it acknowledges that the management practices put certain limits on the use of artificial insemination in beef cattle, sheep and goats; aid may therefore be granted only for the purchase of breeding animals for the improvement of the genetic quality of the herd in beef cattle, sheep and goats;
  - (b) only investment intended to improve the genetic quality of the stock through the purchase of high quality breeding animals, both male and female which are registered in herd books should be eligible; in the case of the replacement of existing breeding stock aid may be granted only for the replacement of animals which were not registered in a herd book;
  - (c) only active farmers are eligible for aid;
  - (d) only animals which ensure optimal reproductive potential for a certain period of time should be purchased; to that end only females purchased before delivering their first offspring should be eligible;
  - (e) purchased animals are to be kept for a period of at least four years in the herd.
- (148) By way of derogation from point (145)(d) aid for meeting standards may be granted subject to the following conditions:
- (a) to young farmers setting up for the first time in an agricultural holding as head of the holding in respect of investments to comply with Union standards applying to agricultural production, including occupational safety; such aid may be granted for a maximum period of 24 months from the date of setting up;
  - (b) Croatia may grant aid for the implementation of the Nitrates Directive<sup>(52)</sup> within a maximum period of four years from the date of its Accession pursuant to Article 3(2) and Article 5(1) of that Directive;
  - (c) where Union law imposes new requirements on undertakings active in the primary agricultural production aid may be granted for investments to comply with those requirements for a maximum period of 12 months from the date on which they become mandatory for the undertaking concerned.

<sup>(52)</sup> See footnote 42 of these Guidelines.



(149) As regards irrigation in new and existing irrigated areas, only investments that fulfil the following conditions will be considered to be eligible costs:

- (a) a river basin management plan, as required under the terms of the Water Framework Directive has been communicated to the Commission for the entire area in which the investment is to take place, as well as in any other areas whose environment may be affected by the investment; the measures taking effect under the river basin management plan in accordance with Article 11 of that Directive and of relevance to the agricultural sector has been specified in the relevant programme of measures;
- (b) water metering enabling the 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;
- (c) an investment in an improvement to an existing irrigation installation or element of irrigation infrastructure is eligible only if it is assessed ex-ante as offering potential water savings of a minimum of between 5 % and 25 % according to the technical parameters of the existing installations 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:
  - (i) the investment must ensure an effective reduction in water use, at the level of the investment, amounting to at least 50 % of the potential water saving made possible by the investment;
  - (ii) in the case of an investment on a single agricultural holding, it must also result in a reduction to the agricultural holding's total water use amounting to at least 50 % of the potential water saving made possible at the level of the investment; the total water use of the holding must include water sold by the holding:

None of the conditions of point (c) should apply to an investment in an existing installation which affects only energy efficiency or to an investment in the creation of a reservoir or to an investment in the use of recycled water which does not affect a body of ground or surface water;
- (d) an investment resulting in a net increase of the irrigated area affecting a given body of ground or surface water is eligible only if:
  - (i) the status of the water body has not been identified as less than good in the relevant river basin management plan for reasons related to water quantity; and
  - (ii) an environmental analysis shows that there will be no significant negative environmental impact from the investment. Such an environmental impact analysis must be either carried out or approved by the competent authority and may also refer to groups of holdings;
- (e) by way of derogation from point (d)(i) , investments resulting in a net increase of the irrigated area may still be eligible if:
  - (i) the investment is combined with an investment in an existing irrigation installation or element of irrigation infrastructure assessed ex-ante as offering potential water savings of a minimum of between 5 % and 25 % according to the technical parameters of the existing installation or infrastructure; and
  - (ii) the investment ensures an effective reduction in water use, at the level of the investment as a whole, amounting to at least 50 % of the potential water saving made possible by the investment in the existing irrigation installation or element of infrastructure;
- (f) by way of derogation from point (d)(i), the conditions set out in that provision do not apply to investments in the establishment of a new irrigation installation supplied with water from an existing reservoir approved by the competent authority before 31 October 2013, if the following conditions are met:
  - (i) the reservoir in question is identified in the relevant river basin management plan and is subject to the control requirements provided for in articles 11(3)(e) of the Water Framework Directive;
  - (ii) on 31 October 2013, there was in force either a maximum limit on total abstractions from the reservoir or a minimum required level of flow in water bodies affected by the reservoir;

- (iii) that maximum limit or minimum required level of flow complies with the conditions set out in Article 4 of the Water Framework Directive; and
  - (iv) the investment in question does not result in abstractions beyond the maximum limit in force on 31 October 2013 or result in a reduction of the level of flow in affected water bodies below the minimum required level in force on 31 October 2013.
- (150) Areas which are not irrigated but in which an irrigation installation was active in the recent past, to be established and justified by Member States, may be considered as irrigated areas for the purpose of determining the net increase of the irrigated area.
- (151) From 1 January 2017, in the case of irrigation, aid can 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(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.

#### Aid intensity

(152) The aid intensity must not exceed the following:

- (a) 75 % of the amount of the eligible costs in the outermost regions;
  - (b) 75 % of the amount of the eligible costs in the smaller Aegean Islands;
  - (c) 75 % of the amount of the eligible costs in Croatia for the implementation of the Nitrates Directive in accordance with point (148)(b) of these Guidelines;
  - (d) 50 % of the amount of the eligible costs in less developed regions and in all regions whose gross domestic product (GDP) per capita for the period from 1 January 2007 to 31 December 2013 was less than 75 % of the average of the EU-25 for the reference period but whose GDP per capita is above 75 % of the GDP average of the EU-27;
  - (e) 40 % of the amount of the eligible costs in other regions;
  - (f) 30 % of the amount of the eligible costs for the purchase of breeding animals referred to in point (147).
- (153) The aid intensity rates referred to in point (152) above may be increased by 20 percentage points provided that the maximum combined aid does not exceed 90 % for the following:
- (a) young farmers or farmers who have set up during the five years preceding the date of the application for aid;
  - (b) collective investments, such as storage facilities which are used by a group of farmers or facilities to prepare the agricultural products before marketing; and integrated projects covering several measures provided for in Regulation (EU) No 1305/2013, including those linked to the merger of producer organisations;
  - (c) investments in areas facing natural or other specific constraints pursuant to Article 32 of Regulation (EU) No 1305/2013;
  - (d) operations financed in the framework of the European Innovation Partnership (EIP), such as an investment in a new stable, allowing the testing of a new practice of animal housing, which have been developed in an operational group composed of farmers, scientists and animal welfare non-governmental organisations;
  - (e) investments aimed at the improvement of the natural environment, hygiene conditions or animal welfare standards, as referred to in point (143)(b) above; in that case, the increased aid intensity as provided for in this point only applies to the additional costs necessary to obtain a level exceeding the Union standards in force and not leading to an increase in production capacity;
  - (f) investments aimed at the improvement of the sustainability of the agricultural holding, as referred to in point (143)(a), which are linked to agri-environment-climate commitments and organic farming under Section 1.1.5.1. and Section 1.1.8 of Part II.

(154) As regards non-productive investments referred to in point (143)(d) and investments for the restoration of production potential referred to in point (143)(e), the maximum aid intensity must not exceed 100 % of the eligible costs.

(155) As regards investment with preventive objectives in point (143)(e), the maximum aid intensity must not exceed 80 %. However, it may be increased up to 100 % if the investment is carried out collectively by more than one beneficiary.

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

(156) The Commission will consider aid for investments in favour of the conservation of cultural and natural heritage located on the agricultural holding compatible with the internal market under Article 107(3) of the Treaty if it complies with the common assessment principles, the general condition for investment aid set out in point (134) of these Guidelines and with the following conditions.

(157) This Section applies to undertakings active in the primary agricultural production.

(158) The aid should be granted for cultural and natural heritage in the form of natural landscapes and buildings which is formally recognised as cultural or natural heritage by the competent public authorities of the Member State.

Eligible costs

(159) The following costs intended for the conservation of cultural and natural heritage are eligible:

- (a) investment costs in tangible assets;
- (b) capital works.

Aid intensity

(160) The following aid intensities apply:

- (a) in the case of investments aimed at the conservation of productive heritage features located on agricultural holdings and provided that the investment does not entail any increase in the production capacity, the aid intensity must be limited to
  - (i) 80 % of the real costs incurred in areas facing natural or other specific constraints pursuant to Article 32 of Regulation (EU) No 1305/2013;
  - (ii) 70 % of the real costs incurred in less developed regions;
  - (iii) 60 % of the real costs incurred on other areas;
- (b) where there is an increase in production capacity, the aid intensities for the investments referred to in points (152) and (153) apply;
- (c) additional aid may be granted at a rate of up to 100 % of the eligible costs to cover the extra costs incurred by using traditional materials necessary to maintain the heritage features of buildings located on agricultural holdings;
- (d) notwithstanding the rules set out in points (a),(b) and (c), the maximum aid intensity may reach 100 % of the eligible costs, where the investment concerns small-scale infrastructures;
- (e) in the case of investments aimed at the conservation of non-productive heritage features located on agricultural holdings, such as archaeological or historical features, the aid intensity may reach up to 100 % of the real costs incurred;
- (f) the aid for capital works must be limited to EUR 10 000 per year.

1.1.1.3. Aid for investment concerning the relocation of farm buildings

(161) The Commission will consider aid for investments concerning the relocation of farm buildings compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, the general condition for investment aid set out in point (134) and with the following conditions.

- (162) This Section applies to undertakings active in the primary agricultural production.
- (163) The relocation of the farm building must pursue an objective of public interest. The public interest invoked to justify the granting of aid under this Section must be specified in the relevant provisions of the Member State concerned.

Aid intensities in relation to eligible costs

(164) The following aid intensities apply:

- (a) where the relocation of farm building consists of the dismantling, removal and re-building of existing facilities the aid intensity may reach up to 100 % of the real costs incurred for such activities;
- (b) where, in addition to point (a) above, the relocation results in a modernisation of the facilities or in an increase in production capacity, the aid intensities for investments as referred to in points (152) and (153) apply in respect to the costs relating to the modernisation of the facilities or the increase of the production capacity. For the purposes of this point, 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 be considered to be related to the modernisation;
- (c) 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 and concerns small-scale infrastructures, the aid intensity may reach up to 100 % of the eligible costs.

**1.1.1.4. Aid for investments in connection with the processing of agricultural products and the marketing of agricultural products**

- (165) The Commission will consider aid for investments in connection with the processing of agricultural products and the marketing of agricultural products compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, the general condition for investment aid set out in point (134) and with the following conditions.
- (166) Aid for food based biofuels should not be granted under this Section, 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.
- (167) This Section applies to aid for investments in tangible assets and intangible assets in connection with the processing of agricultural products and the marketing of agricultural products as referred in point (35)11 and point (35)12.
- (168) Member States may grant aid for investments in connection with the processing of agricultural products and the marketing of agricultural products if the aid fulfils all the conditions of one of the following aid instruments:
- (a) Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty<sup>(53)</sup>; or
  - (b) Guidelines on regional State aid for 2014-2020; or
  - (c) the conditions of this Section of these Guidelines.

Eligible costs

(169) The eligible costs under Point (168)(c) must be limited to:

- (a) the construction, acquisition, including leasing, or improvement of immoveable property, with land purchased only being eligible to an extent not exceeding 10 % of 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;

<sup>(53)</sup> OJ L 187, 26.6.2014, p. 1.

- (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 remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;
- (d) the acquisition or development of computer software and the acquisition of patents, licences, copyrights and trademarks.

(170) The following costs are not eligible:

- (a) costs, other than those referred to point (169) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges;
- (b) working capital;
- (c) costs related to investments to comply with Union standards in force.

#### Aid intensity

(171) The maximum aid intensity under these Guidelines must not exceed the following:

- (a) 75 % of the amount of the eligible costs in the outermost regions;
- (b) 75 % of the amount of the eligible investment costs in the smaller Aegean islands;
- (c) 50 % of the amount of the eligible investment costs in less developed regions and in all regions whose GDP per capita for the period from 1 January 2007 to 31 December 2013 was less than 75 % of the average of the EU-25 for the reference period but whose GDP per capita is above 75 % of the GDP average of the EU-27;
- (d) 40 % of the amount of the eligible investment costs in other regions.

(172) The aid rates referred to in point (171) above may be increased by 20 percentage points, provided that the maximum aid intensity does not exceed 90 % for operations:

- (a) linked to a merger of producer organisations; or
- (b) supported in the framework of the EIP.

(173) Individual aid exceeding the notification threshold referred to in point (37)(a) must be notified to the Commission in accordance with Article 108(3) of the Treaty.

#### *1.1.2. Start-up aid for young farmers and for the development of small farms*

(174) The Commission will consider start-up aid for young farmers and start-up aid for the development of small farms compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

(175) This Section applies to undertakings active in the primary agricultural production.

(176) The aid is granted to young farmers as defined in point (35).29 of these Guidelines, who are micro- and small undertakings or to small farms. Small farms must be defined by Member States based on objective criteria and must be limited to micro- and small undertakings.

(177) Member States must define the upper and lower thresholds to access aid in terms of the production potential of the agricultural holding, measured in standard output, as defined in Article 5 of Commission Regulation (EC) No 1242/2008<sup>(54)</sup>, or an equivalent, for access to start-up aid for young farmers and the development of small farms. The lower threshold for access to start-up aid for young farmers must be higher than the upper threshold for access to aid for the development of small farms.

<sup>(54)</sup> Commission Regulation (EC) No 1242/2008 of 8 December 2008 establishing a Community typology for agricultural holdings (OJ L 335, 13.12.2008, p. 3).

- (178) 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 must 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 must 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 must apply to any natural person having control over that other legal person.
- (179) The aid must be conditional on the submission of a business plan to the competent authority of the Member State concerned, the implementation of which must start within nine months from the date of the adoption of the decision granting the aid.
- (180) In the case of aid for young farmers, the business plan must provide that the beneficiary has to comply with the definition of active farmer provided for in Article 9 of Regulation (EU) No 1307/2013, within 18 months from the date of setting up.
- (181) Young farmers who do not possess adequate occupational skills and competences are entitled to receive aid provided that they make a commitment to acquire those occupational skills and competences within 36 months from the date of the adoption of the decision on granting the aid. That commitment must be included in the business plan.
- (182) The business plan must describe at least the following:
- (a) in the case of start-up aid to young farmers:
    - (i) the initial situation of the agricultural holding;
    - (ii) milestones and targets for the development of the activities of the agricultural holding;
    - (iii) details of the actions including those related to environmental sustainability and resource efficiency, required for the development of the activities of the agricultural holding, such as investments, training, advice or any other activity;
  - (b) in the case of start-up aid for the development of small farms:
    - (i) the initial situation of the agricultural holding; and
    - (ii) details of actions including those related to environmental sustainability and resource efficiency, that could support the achievement of economic viability, such as investments, training, co-operation or any other action.
- (183) Aid must be provided or paid in at least in two tranches or instalments over a maximum period of five years. For young farmers, the last aid tranche or the last instalment of the aid must be conditional upon the correct implementation of the business plan referred to in point (179).

#### Aid intensity

- (184) The maximum aid must be limited to EUR 70 000 per young farmer and EUR 15 000 per small farm. Member States must define the amount of aid for young farmers also taking into account the socio-economic situation of the area concerned.

#### *1.1.3. Aid for the transfer of agricultural holdings*

- (185) The Commission will consider aid for the transfer of agricultural holdings compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (186) This Section applies to undertakings active in the primary agricultural production which permanently transfer their agricultural holding to another undertaking active in the primary agricultural production.
- (187) Aid is granted to undertakings, eligible to participate in the small farmers scheme, established by Title V of Regulation (EU) No 1307/2013, which on the date of submitting their aid application, have been so eligible for a period of at least one year and which undertake to permanently transfer their entire agricultural holding and the corresponding payment entitlements to another undertaking.

(188) The aid must be paid either as annual payment or as a one-off payment.

(189) The aid must be paid from the date of the transfer of the agricultural holding until 31 December 2020.

#### Aid intensity

(190) The aid corresponds to 120 % of the annual payment that the beneficiary is eligible to receive under the small farmer scheme.

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

(191) The Commission takes a favourable view for start-up aid for producer groups and producer organisations as it creates an incentive for bringing together farmers. It will therefore consider start-up aid for producer groups and producer organisations compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

(192) This Section applies to the whole agricultural sector<sup>(55)</sup>.

(193) 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 are eligible for aid.

(194) The start-up aid must be granted subject to the obligation of the Member State to verify that the objectives of the business plan have been reached within a period of five years from the date of the official recognition of the producer group or organisation.

(195) The agreements, decisions and concerted practices concluded in the framework of the producer group or organisation must comply with the competition rules as they apply by virtue of Articles 206 to 210 of Regulation (EU) No 1308/2013.

(196) As an alternative to providing start-up aid to producer groups or organisations, aid up to the same overall amount may be granted directly to producers to offset their contributions to the costs of running the groups or organisations during a period of the first five years following the formation of the group or organisation.

(197) Member States may continue to grant start up aid for producer groups even after they have been recognised as producer organisations under the conditions of Regulation (EU) No 1308/2013.

(198) Aid must be limited to producer groups and producer organisations falling within the definition of SMEs<sup>(56)</sup>. The Commission will not authorise State aid towards the costs covered in this Section in favour of large enterprises<sup>(57)</sup>.

(199) Aid schemes authorised under this Section will be subject to a condition requiring them to adjust to take account of any changes in the regulations governing the common organisation of the markets in agricultural products.

#### Eligible costs

(200) The eligible costs may include the costs of the rental of suitable premises, the acquisition of office equipment, including computer hardware and software, administrative staff costs, overheads and legal and administrative fees. Where premises are purchased, the eligible costs for premises must be limited to rental costs at market rates.

(201) Aid must 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;

<sup>(55)</sup> See definition of agricultural sector in point (35)2 of these Guidelines.

<sup>(56)</sup> See the definition of SME in point (35)13 of these Guidelines.

<sup>(57)</sup> See the definition of large enterprise in point (35)14 of these Guidelines.

- (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 Articles 152 (1)(c) and (3) and Article 156 of Regulation (EU) No 1308/2013.

- (202) The aid must 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 its business plan. Member States must only pay the last instalment after having verified the correct implementation of the business plan.
- (203) Aids which are granted to producer group or organisations to cover expenses which are not linked to start-up costs, such as investments or promotion activities, will be assessed in accordance with the rules governing such type of aids.

#### Aid intensity

- (204) The aid intensity must be limited to 100 % of the eligible costs.
- (205) The total amount of aid must be limited to EUR 500 000. The aid must be degressive.

#### *1.1.5. Aid for agri-environment-climate and animal welfare commitments*

- (206) This Section applies to undertakings active in the primary agricultural production.

##### *1.1.5.1. Aid for agri-environment-climate commitments*

- (207) The Commission will consider aid for agri-environment-climate commitments compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (208) This Section applies to aid to undertakings and groups of such undertakings which undertake, on a voluntary basis, to carry out operations consisting of one or more agri-environment-climate commitments on agricultural land which is to be defined by Member States, including but not limited to the agricultural area as defined under point (35)50 of these Guidelines.
- (209) The measure must aim at the preservation as well as at the promotion of the necessary changes to agricultural practices that make a positive contribution to the environment and climate.
- (210) The aid will cover only those voluntary commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No 1307/2013, and relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national law. All such mandatory standards and requirements must be identified and described in the notification to the Commission.
- (211) Member States should endeavour to ensure that the undertakings that undertake to carry out operations under this measure are provided with the knowledge and information required to implement them, such as by commitment-related expert advice and/or by making aid under this measure conditional on obtaining relevant training.
- (212) Commitments under this measure must be undertaken for a period of five to seven years. However, where necessary in order to achieve or maintain the environmental benefits sought, Member States may determine a longer period for particular types of commitments, including by means of providing for their annual extension after the termination of the initial period<sup>(58)</sup>. For new commitments directly following the commitment performed in the initial period, Member States may determine a shorter period.

<sup>(58)</sup> For instance, in the case of sub-measures aiming at restoring and maintaining wetland habitats, aid could be granted for a period of more than seven years given the complexity of meeting these objectives.



- (213) Where relevant, the rules for area related payments provided for in Article 47 of Regulation (EU) No 1305/2013 and in any delegated act adopted pursuant to that provision should be complied with.
- (214) Aid for agri-environment-climate commitments to other land managers and other groups of beneficiaries than undertakings active in the agricultural sector may be granted under Section 3.4 of Part II these Guidelines.
- (215) Commitments under the agri-environment-climate measure to extensify livestock farming must comply with at least the following conditions:
- (a) the whole grazed area of the holding must be managed and maintained to avoid over- and under-grazing;
  - (b) livestock density must be defined taking account of all grazing livestock kept on the farm or, in the case of a commitment to limit nutrient leaching, all animals kept on the farm which are relevant to the commitment in question.
- (216) Commitments under the agri-environment-climate measure to rear local breeds in danger of being lost to farming or to preserve plant genetic resources under threat of genetic erosion must require:
- (a) to rear farm animals of local breeds, genetically adapted to one or more traditional production systems or environments in the country, in danger of being lost to farming; or
  - (b) to preserve plant genetic resources naturally adapted to the local and regional conditions and under threat of genetic erosion.
- (217) The following species of farm animals are eligible for aid: cattle; sheep; goats; equidae; pigs and birds.
- (218) Local breeds will be considered as being in danger of being lost to farming if the following conditions are fulfilled and if those conditions are also described and included in the notification to the Commission:
- (a) the number, at national level, of breeding females concerned is stated;
  - (b) that number and the endangered status of the listed breeds is certified by a duly recognised relevant scientific body;
  - (c) a duly recognised relevant technical body registers and keeps up-to-date the herd or flock book for the breed;
  - (d) the bodies concerned possess the necessary skills and knowledge to identify animals of the breeds in danger.
- (219) Plant genetic resources will be considered as being under threat of genetic erosion on condition that sufficient evidence of genetic erosion, based upon scientific results or indicators for the reduction of landraces/primitive local varieties, their population diversity and, where relevant, for modifications in the prevailing agricultural practices at local level, is described and included in the notification to the Commission.
- (220) Aid may be provided for the conservation and for the sustainable use and development of genetic resources in agriculture for operations not covered by the provisions under points (208) to (219) of this Section.

#### Eligible costs

- (221) Aid, with the exception of aid for operations for the conservation of genetic resources as referred to in point (220), covers compensation to beneficiaries for all or part of the additional costs and income foregone resulting from the commitments they made. The aid must be granted annually.

- (222) In duly justified cases, for operations concerning environmental conservation, aid may be granted as a flat-rate or as a one-off payment per unit for commitments to renounce the commercial use of areas, calculated on the basis of additional costs incurred and income foregone.
- (223) Where necessary the aid may also cover transaction costs to a value of up to 20 % of the premium paid for the agri-environment-climate commitments. Where commitments are undertaken by groups of undertakings, the maximum level must be 30 %.
- (224) However, if a Member State wants to compensate for transaction costs caused by entering into agri-environment-climate commitments, it must provide convincing proof of such costs, for example by presenting cost comparisons with undertakings not entering into such commitments. The Commission will therefore not normally authorise State aid for transaction costs for the continuation of commitments already entered into in the past, unless a Member State demonstrates that such costs continue to occur or that new transaction costs are being incurred.
- (225) Where transaction costs are calculated on the basis of average costs and/or average farms, Member States should demonstrate that, in particular, large enterprises are not overcompensated. For the purpose of calculating compensation, Member States must take into account whether the transaction costs in question are incurred per undertaking or per hectare.
- (226) No aid under this measure may be granted for commitments that are covered under the organic farming measure defined in Section 1.1.8 of Part II of these Guidelines.
- (227) Aid for the conservation of genetic resources in agriculture covers 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 agriculture, including web-based inventories of genetic resources currently conserved in situ, including in situ/ on-farm 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 agriculture, 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.

#### Aid amount and aid intensity

- (228) Aid, with the exception of aid for operations for the conservation of genetic resources as referred to in point (220), must be limited to the following maximum amounts: EUR 600 per hectare per year for annual crops; EUR 900 per hectare per year for specialised perennial crops; EUR 450 per hectare per year for other land uses; EUR 200 per livestock unit per year for local breeds in danger of being lost to farming.
- (229) These amounts may be increased in duly substantiated cases taking into account specific circumstances to be justified in the notification to the Commission.
- (230) For the conservation of forest genetic resources in agriculture, the aid must be limited to 100 % of the eligible costs.

#### **1.1.5.2. Aid for animal welfare commitments**

- (231) The Commission will consider aid for animal welfare commitments compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (232) This Section applies to aid to undertakings active in the primary agricultural production which undertake, on a voluntary basis, to carry out operations consisting of one or more animal welfare commitments and which are active farmers.
- (233) The aid covers only those commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013 and other relevant mandatory requirements. These relevant requirements must be identified and described in the notification to the Commission.

- (234) Animal welfare commitments eligible to receive aid must provide upgraded standards of production methods in one of the following areas:
- (a) water, feed and animal care in accordance with the natural needs of animal husbandry;
  - (b) housing conditions, such as increased space allowances, flooring surfaces, enrichment materials, natural light;
  - (c) outdoor access;
  - (d) practices which avoid mutilation and/or castration of animals or in specific cases when mutilation or castration of animals is deemed necessary, provide for the use of anaesthetics, analgesia and anti-inflammatory medication or immunocastration.
- (235) The animal welfare commitments must be undertaken for a renewable period of one to seven years.
- (236) The renewal of a contract can be also automatic, if its details are described in the contract. The mechanism of renewal of the animal welfare commitments must be set up by the Member States in accordance with their relevant national rules. Such mechanism must be communicated to the Commission as part of the notification of State aid pursuant to this Section. The renewal must always be subject to respect of conditions approved by the Commission for aid pursuant to this Section.

#### Eligible costs

- (237) The aid must be granted annually and may compensate undertakings active in primary agricultural production for all or part of the additional costs and income foregone resulting from the commitment made by them.
- (238) Where necessary, they may also cover transaction costs to the value up to 20 % of the premium paid for the animal welfare commitments. However, if a Member State wants to compensate for transaction costs caused by entering into animal welfare commitments, it must provide convincing proof of such costs, for example by presenting cost comparisons with undertakings not entering into such animal welfare commitments. The Commission will, therefore, not normally authorise State aid for transaction costs for the continuation of animal welfare commitments already entered into in the past, unless a Member State demonstrates that such costs continue to occur or that new transaction costs are being incurred.
- (239) Where transaction costs are calculated on the basis of average costs and/or average farms, Member States should demonstrate that, in particular, large enterprises are not overcompensated. For the purpose of calculating compensation, Member States must take into account whether the transaction costs in question are incurred per undertaking or per hectare.

#### Aid amount

- (240) Aid must be limited to EUR 500 per livestock unit.

#### *1.1.6. Aid for disadvantages related to Natura 2000 areas and to the Water Framework Directive*

- (241) The Commission will consider aid for disadvantages related to Natura 2000 areas and to the Water Framework Directive compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (242) This Section applies to undertakings active in the primary agricultural production.
- (243) Aid to other land managers other than undertakings active in the agricultural sector in duly justified cases may be granted in accordance with Section 3.5 of Part II of these Guidelines.

#### Eligible costs

- (244) Aid covers compensation to beneficiaries for additional costs and income foregone resulting from disadvantages in the areas concerned, related to the implementation of the Habitats Directive, the Birds Directive and the Water Framework Directive<sup>(59)</sup>.

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<sup>(59)</sup> See point (52) and footnote 42 of these Guidelines.

- (245) Aid linked to the Habitats Directive and the Birds Directive may only be granted in relation to disadvantages resulting from requirements that go beyond the good agricultural and environmental condition provided for in Article 94 and Annex II of Council Regulation (EU) No 1306/2013 and the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (iii) of Article 4(1) of Regulation (EU) No 1307/2013.
- (246) Aid linked to the Water Framework Directive may only be granted in relation to specific requirements that:
- (a) were introduced by the Water Framework Directive, are in accordance with the programmes of measures of the river basin management plans for the purpose of achieving the environmental objectives of that Directive and go beyond the measures required to implement other Union legislation for the protection of water;
  - (b) go beyond the statutory management requirements and the good agricultural and environmental condition provided for in Chapter I of Title VI of Regulation (EU) No 1306/2013 and the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (iii) of Article 4(1) of Regulation (EU) No 1307/2013;
  - (c) go beyond the level of protection of the Union law existing at the time the Water Framework Directive was adopted as laid down in Article 4(9) of the that Directive; and
  - (d) impose major changes in the type of land use, and/or major restrictions in farming practice resulting in a significant loss of income.
- (247) The requirements referred to in points (245) and (246) must be identified and described in the notification to the Commission.
- (248) The following areas are eligible for aid:
- (a) Natura 2000 agricultural areas designated pursuant to the Habitats Directive and the Birds Directive;
  - (b) other delimited nature protection areas with environmental restrictions applicable to farming which contribute to the implementation of Article 10 of the Habitats Directive; these areas must not exceed 5 % of the designated Natura 2000 areas covered by the territorial scope of the relevant rural development programme;
  - (c) agricultural areas included in river basin management plans according to the Water Framework Directive.

#### Aid amount

- (249) Aid must be limited to the following amounts: EUR 500 per hectare per year maximum in the initial period not exceeding five years; and EUR 200 per hectare per year maximum thereafter. Aid related to the Water Framework Directive must amount to a minimum of EUR 50 per hectare per year.
- (250) The maximum amounts of EUR 500 and EUR 200 may be increased in exceptional cases taking into account specific circumstances to be justified. The minimum amount of EUR 50 for aid related to the Water Framework Directive may be decreased in duly substantiated cases taking into account specific circumstances to be justified.

#### *1.1.7. Aid to areas facing natural or other specific constraints*

- (251) The Commission will consider aid in mountain areas and other areas facing natural or other specific constraints compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (252) This Section applies to undertakings active in the primary agricultural production.
- (253) Aid may be granted to undertakings which undertake to pursue their farming activity in areas designated pursuant to Article 32 of Regulation (EU) No 1305/2013 and who are active farmers.

Eligible costs

- (254) The aid covers compensation to undertakings active in the primary agricultural production for all or part of the additional costs and income foregone related to the constraints for agricultural production in the area concerned. Member States must demonstrate the constraints in question and provide proof that the amount of compensation to be paid does not go beyond income loss and additional costs resulting from those constraints.
- (255) Additional costs and income foregone must be calculated in comparison to areas which are not affected by natural or other specific constraints, taking into account payments pursuant to Chapter 3 of Title III of the Regulation (EU) No 1307/2013.
- (256) When calculating additional costs and income foregone, Member States may, where duly justified, differentiate the level of payment taking into account the following:
- (a) the severity of the identified permanent natural constraint affecting farming activities;
  - (b) the farming system.
- (257) The aid will be granted annually per hectare of agricultural area.

Aid amount

- (258) Aid must be fixed between the following minimum and maximum amounts: EUR 25 minimum per hectare per year on average of the area of the beneficiary receiving aid, and EUR 250 maximum per hectare per year. However, the maximum amount may reach EUR 450 per hectare per year in mountain areas as defined in Article 32(2) of Regulation (EU) No 1305/2013.
- (259) The maximum amounts may be increased in duly substantiated cases taking into account specific circumstances to be justified in the notification to the Commission.
- (260) Member States must provide for degressivity of aid above a threshold level of area per holding, to be defined, except if the grant only concerns the minimum amount per hectare per year as laid down in point (258) of these Guidelines. To that effect, notifications should specify the size of the farm that will benefit from such aid.
- (261) In the case of a legal person, or a group of natural or legal persons, Member States may apply the degressivity of aid at the level of the members of these legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.
- (262) In addition to the aid provided for in point (253) Member States may grant aid under this measure between 2014 and 2020 to beneficiaries in areas which were eligible under Article 36(a)(ii) of Regulation (EC) No 1698/2005<sup>(60)</sup> during the 2007-2013 rural development programming period. For beneficiaries in areas that are no longer eligible following the new delimitation referred to in Article 32(3) of Regulation (EU) No 1305/2013, this aid must be degressive over a maximum period of four years starting on the date the delimitation in accordance with Article 32(3) of Regulation (EU) No 1305/2013 is completed and at the latest in 2018. Those aid must start at no more than 80 % of the average payment fixed in the rural development programme for the period 2007-2013 or, if the measure was granted exclusively from national funds, in the relevant State aid decision, in accordance with Article 36(a)(ii) of Regulation (EC) No 1698/2005, and must end in 2020 at the latest at no more than 20 %. When the application of degressivity results in the level of the payment reaching EUR 25, the Member State can continue to grant aid at this level until the phasing out period is completed.
- (263) Following completion of the delimitation, beneficiaries in the areas that remain eligible must receive full payment under this measure.

<sup>(60)</sup> Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

#### 1.1.8. *Aid for organic farming*

- (264) The Commission will consider aid for organic farming compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (265) This Section applies to undertakings active in the primary agricultural production.
- (266) Aid per hectare of agricultural area may be granted to undertakings or groups of undertakings which undertake on a voluntarily basis to convert to or maintain organic farming practices and methods as defined in Council Regulation (EC) No 834/2007<sup>(61)</sup> and who are active farmers.
- (267) Aid is granted only for commitments which go beyond the following standards and requirements which must be identified and described in the notification to the Commission:
- (a) the relevant mandatory standards established under Chapter 1, Title VI of Regulation (EU) No 1306/2013;
  - (b) the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No 1307/2013;
  - (c) the relevant minimum requirements applicable to the use of fertilisers and plant protection products; as well as
  - (d) other relevant mandatory requirements laid down in national law.
- (268) Commitments must be carried out over an initial period of five to seven years. However, where aid is granted for conversion to organic farming Member States may determine a shorter initial period corresponding to the period of conversion. Where aid is granted for the maintenance of organic farming, Member States may provide for an annual extension after the termination of the initial period. For new commitments concerning maintenance directly following the commitment performed in the initial period, Member States may determine a shorter period.
- (269) Where relevant, the rules for area related payments laid down in Article 47 of Regulation (EU) No 1305/2013 and any delegated act adopted pursuant to that provision should be complied with.

#### Eligible costs

- (270) Aid covers compensation to beneficiaries for part of or all additional costs and loss of income resulting from the commitments.
- (271) Where necessary, aid may also cover transaction costs with a maximum value of 20 % of the premium paid for the commitment. Where commitments are undertaken by groups of undertakings the maximum level is 30 %. This aid is granted on an annual basis.
- (272) However, if a Member State wants to compensate for transaction costs caused by entering into organic farming commitments, it must provide convincing proof of such costs, for example by presenting cost comparisons with undertakings not entering into such commitments. The Commission will, therefore, not normally authorise State aid for transaction costs for the continuation of organic farming commitments already entered into in the past, unless a Member State demonstrates that such costs continue to occur or that new transaction costs are being incurred.
- (273) Where transaction costs are calculated on the basis of average costs and/or average farms, Member States should demonstrate that in particular large enterprises are not overcompensated. For the purpose of calculating compensation, Member States should take into account whether the transaction costs in question are incurred per undertakings or per hectare.
- (274) Aid may not be granted under this Section for commitments covered by the agri-environment-climate measure, or for costs covered by the Section on aid to encourage the participation of producers of agricultural products in quality systems.
- (275) Aid for investment in primary production and the processing and marketing of organic products is subject to the provisions of the Sections on aid for investment.

<sup>(61)</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).

Aid amount

- (276) The maximum amount of aid is: EUR 600 per hectare per year for annual crops; EUR 900 per hectare per year for specialised perennial crops; EUR 450 per hectare per year for other land use.
- (277) These ceilings may be exceeded in exceptional cases, taking into account specific circumstances which must be justified.

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

- (278) The Commission will consider aid in favour of the participation of producers of agricultural products and groups thereof in quality schemes compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions:
- (279) This Section applies to producers of agricultural products. Only active farmers are eligible for aid referred to in point (280)(a).

Eligible costs

- (280) The aid covers the following eligible costs in relation to quality schemes as referred to in point (282) of these Guidelines:
- (a) the costs for new participation in quality schemes;
  - (b) the costs for compulsory control measures in relation to the quality schemes undertaken pursuant to Union or national legislation by or on behalf of the competent authorities;
  - (c) the costs of market research activities, product conception and design and for the preparation of applications for recognition of quality schemes.
- (281) The aid referred to in point (280)(a) and (b) must not be granted towards the costs of controls undertaken by the beneficiaries themselves, or where Union legislation provides that the costs of control are to be met by producers of agricultural products and group thereof, without specifying the actual level of charges.
- (282) The quality schemes referred to in point (280)(a) of these Guidelines must be the following:
- (a) quality scheme established under the following Regulations and provisions:
    - (i) Part II, Title II, Chapter I, Section 2 of Regulation (EU) No 1308/2013 as concerns wine;
    - (ii) Regulation (EU) No 1151/2012;
    - (iii) Regulation (EC) No 834/2007<sup>(62)</sup>;
    - (iv) Regulation (EC) No 110/2008 of the European Parliament and of the Council<sup>(63)</sup>;
    - (v) Regulation (EU) No 251/2014 of the European Parliament and of the Council<sup>(64)</sup>;
  - (b) quality schemes, including farm certification schemes, for agricultural products recognised by the Member States as complying with the following criteria:
    - (i) the specificity of the final product produced under such quality schemes must be derived from a clear obligations to guarantee
      - specific product characteristics; or
      - specific farming or production method; or

<sup>(62)</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>(63)</sup> Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

<sup>(64)</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).

- 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 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 assures complete traceability of agricultural products;
  - (c) voluntary agricultural product certification schemes recognised by the Member States concerned as meeting the requirements laid down in Commission Communication - EU best practice guidelines voluntary certification schemes for agricultural products and foodstuffs<sup>(65)</sup>.
- (283) The aid must be accessible to all those eligible undertakings in the area concerned, based on objectively defined conditions.
- (284) The aid referred to in point (280)(b) and (c) of these Guidelines must not involve direct payments to the beneficiaries and must be paid to the body responsible for control measures, the research provider or the consultancy provider.

#### Aid amount

- (285) The aid referred to in Point (280)(a) above must be granted for a maximum period of five years and must be limited to EUR 3 000 per beneficiary per year. It must be granted in the form of an annual incentive payment, the level of which is determined according to the level of the fixed costs arising from the participation in quality schemes.
- (286) The aid referred to in Point (280)(b) and (c) may reach 100 % of the real costs incurred.
- 1.1.10. *Aid for provision of technical support in the agricultural sector*
- (287) This Section covers aid for the provision of technical support in the agricultural sector, with the exception of aid for farm replacement services which can be granted only to undertakings active in the primary agricultural production.
- (288) The provision of technical support may be undertaken by producer groups or other organisations, regardless of their size.
- (289) The aid must be accessible to all those eligible in the area concerned, based on objectively defined conditions. Where the provision of technical support is undertaken by producer groups or organisations, membership of such groups or organisations must not be a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organization concerned must be limited to the costs of providing the service.

#### 1.1.10.1. *Aid for knowledge transfer and information actions*

- (290) The Commission will consider aid for knowledge transfer and information actions compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the general conditions for aid for technical support and with the following conditions.
- (291) The aid covers vocational training and skills acquisitions, including training courses, workshops and coaching, demonstration activities and information actions.
- (292) The aid may also cover short-term farm management exchange and farm visits.

<sup>(65)</sup> OJ C 341, 16.12.2010, p. 5.



Eligible costs

(293) The aid covers the following eligible costs:

- (a) the costs of organising vocational training, skills acquisition actions, demonstration activities or information actions;
- (b) the costs of travel, accommodation and per diem expenses of the participants;
- (c) the costs of the provision of replacement services during the absence of the participants;
- (d) in the case of demonstration projects the following investment costs are also eligible:
  - (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 remain eligible expenditure even where, based on their results, no expenditure under points (i) and (ii) is incurred;
  - (iv) acquisition or development of computer software and the acquisitions of patents, licences, copyrights and trademarks;
  - (v) where duly justified, aid for small-scale demonstration projects may be granted for additional expenses and income foregone relating to the demonstration project.

(294) The costs referred to in point (293)(d) (i) to (iv) are eligible to the extent used 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 are considered as eligible.

(295) Bodies providing knowledge transfer and information services must have the appropriate capacities in the form of staff qualifications and regular training to carry out those tasks.

(296) Aid referred to in point (293)(a) and (c) and (d) (i) to (iv) must not involve direct payments to the beneficiaries and must be paid to the provider of knowledge transfer and information action. Aid referred to in point (293)(d) (v) must be paid directly to the beneficiaries. Aid for small-scale demonstration projects, referred to in point (293)(d)(i) to (iv), may be paid directly to the beneficiaries.

Aid intensity

(297) The aid intensity must be limited to 100 % of the eligible costs.

(298) In the case of eligible costs referred to in point (293)(d) the maximum aid amount must be limited to EUR 100 000 over 3 fiscal years.

#### 1.1.10.2. Aid for advisory services

(299) The Commission will consider aid for the provision of advisory services compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the general conditions for aid for technical support and with the following conditions.

(300) The aid should be designed to help undertakings active in the agricultural sector and young farmers benefit from the use of advisory services for the improvement of the economic and environmental performance as well as the climate friendliness and resilience of their undertaking and/or investment.

- (301) The advice must be linked to at least one Union priority for rural development and must cover as a minimum one of the following elements:
- (a) Obligations deriving from the statutory management requirements and/or standards for good agricultural and environmental conditions provided in Chapter I of Title VI of Regulation (EU) No 1306/2013;
  - (b) where applicable, the agricultural practices beneficial for the climate and the environment as laid down in Chapter 3 of Title III of Regulation (EU) No 1307/2013 and the maintenance of the agricultural area as referred to in point (c) of Article 4(1) of that Regulation;
  - (c) measures aiming at farm modernization, competitiveness building, sectoral integration, innovation and market orientation as well as the promotion of entrepreneurship;
  - (d) requirements defined by Member States for implementing Article 11(3) of the Water Framework Directive;
  - (e) requirements defined by Member States for implementing Article 55 of Regulation (EC) 1107/2009 of the European Parliament and of the Council<sup>(66)</sup>, and in particular compliance with the general principles of integrated pest management as referred to in Article 14 of Sustainable Use of Pesticides Directive<sup>(66)</sup>;
  - (f) where relevant occupational safety standards and safety standards linked to farms;
  - (g) specific advice for farmers setting up for the first time, including advice on economic and environmental sustainability.
- (302) Advice may cover other issues and in particular the information related to climate change mitigation and adaptation, biodiversity and protection of waters as laid down in Annex I to Regulation 1307/2013 or issues 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.
- (303) The aid must not involve direct payments to the beneficiaries. The aid must be paid to the advisory services provider.
- (304) The bodies selected to provide the advisory service must have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise in.
- (305) When providing advice, the advisory service providers must respect the non-disclosure obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013.
- (306) Where duly justified and appropriate, the advice may be partly provided in group, while taking into account the situation of the individual user of advisory services.

#### Aid amount

- (307) The amount of aid is limited to EUR 1 500 per advice.

#### 1.1.10.3. Aid for farm replacement services

- (308) The Commission will consider aid for farm replacement services compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the general conditions for aid for technical support and with the following conditions.
- (309) The aid must not involve direct payments to the farmer. The aid must be paid to the provider of the farm replacement service.

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<sup>(66)</sup> See footnote 42 of these Guidelines.

Eligible costs

- (310) Aid covers the real costs incurred for the replacement of a farmer, a natural person who is a member of 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 in case of death.
- (311) The total duration of the replacement should be limited to 3 months per year per beneficiary, with the exception of replacement for maternity and parental leave which shall be limited to 6 months in each case. However, in duly justified cases the Commission may authorize a longer time period.

Aid intensity

- (312) The aid intensity is limited to 100 % of the eligible costs.

*1.1.11. Aid for co-operation in the agricultural sector*

- (313) The Commission will consider aid for co-cooperation in the agricultural sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (314) This Section applies to the whole agricultural sector<sup>(67)</sup>.
- (315) Aid should be granted in order to promote forms of cooperation involving at least two entities irrespective of whether they are active in the agricultural sector, but subject to the cooperation benefitting only the agricultural sector, and in particular:
- (a) co-operation approaches among different undertakings in the agricultural sector, food chain (only if the result of the processing is an agricultural product) and other actors active in the agricultural sector that contribute to achieving the objectives and priorities of rural development policy, including producer groups, cooperatives and inter-branch organisation;
  - (b) the creation of clusters and networks;
  - (c) the establishment and operation of operational groups of the EIP for agricultural productivity and sustainability as referred to in Article 56 of Regulation (EU) No 1305/2013.
- (316) The aid will be granted for cooperation relating, in particular, to the following activities:
- (a) pilot projects;
  - (b) the development of new products, practices, processes and technologies in the agricultural sector and food sector only as far as agricultural products are concerned;
  - (c) co-operation among small operators in the agricultural sector in organizing joint work processes and sharing facilities and resources;
  - (d) horizontal and vertical co-operation among supply chain actors for the establishment and development of short supply chains and local markets;
  - (e) promotion activities in a local context relating to the development of short supply chain and local markets;
  - (f) joint action undertaken with a view to mitigating or adapting to climate change;
  - (g) joint approaches to environmental projects and ongoing environmental practices including efficient water management, the use of renewable energy<sup>(68)</sup> and the preservation of agricultural landscapes;

<sup>(67)</sup> See definition of agricultural sector in point (35)2 of these Guidelines.

<sup>(68)</sup> This applies to co-operation relating to the production of energy from renewable sources or the production of biofuels on holdings, provided that the conditions laid down in Section 1.1.1.1 of Part II of these Guidelines are complied with.

- (h) horizontal and vertical cooperation among supply chain actors in the sustainable provision of biomass for use in food production if the result is an agricultural product and energy production for own consumption;
  - (i) implementation, in particular by groups of public and private partners other than those defined in point (b) of Article 32(2) of Regulation (EU) No 1303/2013, of local development strategies other than those defined in Article 2(19) of Regulation (EU) No 1303/2013 addressing one or more of the Union priorities for rural development.
- (317) Aid for the creation of clusters and networks must be granted only to newly formed clusters and networks and those commencing an activity that is new to them.
- (318) Aid for the activities referred to in point (316)(a) and (b) may be granted also to individual actors. Where aid is granted to individual actors, the results of the supported project or activity must be disseminated.
- (319) Aid for the establishment and development of short supply chains, as referred to in point (316)(d) and (e) must cover only supply chains involving no more than one intermediary between farmer and consumer.
- (320) Aid under this Section should comply with the relevant provisions of competition law, in particular with Articles 101 and 102 of the Treaty, as they apply by virtue of Articles 206 to 210 of Regulation (EU) No 1308/2013.

#### Eligible costs

(321) Aid covers the following eligible costs in so far as they concern agricultural activities:

- (a) the costs for studies of the area concerned, of feasibility studies, and of drawing up a business plan or local development strategy other than the one referred to in Article 33 of Regulation (EU) No 1303/2013;
  - (b) the costs of animation of the area concerned in order to make feasible a collective territorial project or a project to be carried out by an operational group of the EIP for Agricultural Productivity and Sustainability as referred to in Article 56 of Regulation (EU) No 1305/2013. In the case of clusters, animation may also concern the organisation of training, networking between members and the recruitment of new members;
  - (c) the running costs of co-operation, such as the salary of a 'co-ordinator';
  - (d) the direct costs of specific projects linked to the implementation of a business plan, environmental plan, a local development strategy other than the one referred to in Article 33 of Regulation (EU) No 1303/2013 or other actions aiming at innovation including testing; direct costs must be limited to the eligible costs of investment aid, as specified in Section 1.1.1.1 of Part II of these Guidelines on investment aid;
  - (e) the costs for promotion activities.
- (322) Aid must be limited to a maximum period of seven years except for collective environmental action in duly justified cases.

#### Aid intensity

- (323) The aid may reach up to 100 % of the eligible costs.
- (324) Direct costs, referred to in point (321)(d) above, must be limited to the maximum aid intensity of investment aid, as specified in the Section on investment aid.

### **1.2. Risk and crisis management**

- (325) The granting of State aid may be an appropriate means of support with regards to certain types of risks in the agricultural sector, as the agricultural activity as a whole is particularly exposed to risks and crises. Differences exist, however, between undertakings active in primary agricultural production and undertakings active in the processing of agricultural products and their marketing, which normally have better possibilities to hedge risks. Some categories of aid in this Section will therefore only be available for undertakings active in primary agricultural production.

(326) When granting State aid to activities affected by the risks and crises, the Commission will take into consideration the need to avoid undue distortions of competition, by requiring a minimum contribution from producers to losses or the cost of such aid measures or some other adequate measures which should be taken to mitigate the risk of distortion of competition and ensure that the State aid is proportionate to the losses suffered. In its assessment, the Commission will take into account the need for the beneficiary to take adequate preventive measures to minimise the total amount of aid granted.

1.2.1. *Aids to compensate for the damage to agricultural production or the means of agricultural production and to prevent damage*

1.2.1.1. Aid to make good the damage caused by natural disasters or exceptional occurrences

(327) The Commission will consider aid to make good the damage caused by natural disasters or exceptional occurrences compatible with the internal market under Article 107(2) (b) of the Treaty if it complies with the following conditions.

(328) This Section applies to the agricultural sector <sup>(69)</sup>.

(329) As they constitute exceptions to the general prohibition of State aid within the internal market laid down in Article 107(1) of the Treaty, the Commission has consistently held that the notions of 'natural disaster' and 'exceptional occurrence' referred to in Article 107(2)(b) of the Treaty must be interpreted restrictively. This has been confirmed by the Court of Justice of the European Union <sup>(70)</sup>.

(330) To date, the Commission has accepted that earthquakes, avalanches, landslides and floods may constitute natural disasters. In addition, it takes account of the development within the framework of the State aid modernization initiative which permits to block exempt also the following categories of natural disaster events: tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin. Exceptional occurrences which have been accepted in the past by the Commission include war, internal disturbances or strikes, and, with certain reservations and depending on their extent, major nuclear or industrial accidents and fires which result in widespread loss <sup>(71)</sup>. The Commission will continue to evaluate proposals to grant State aid in accordance with Article 107(2)(b) of the Treaty on a case by case basis, having regard to its previous practice in this field.

(331) Aid granted under this Section is subject to the following conditions:

(a) the competent authority of the Member State has formally recognized the character of the event as a natural disaster or as exceptional occurrence;  
and

(b) there is a direct causal link between the natural disaster or the exceptional occurrence and the damage suffered by the undertaking.

(332) Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to in point (331)(a) is deemed to be granted.

(333) Aid must be paid directly to the undertaking concerned or to a producer group or organization of which that undertaking is a member. Where the aid is paid to a producer group and organization, the amount of aid must not exceed the amount of aid to which that undertaking is eligible.

(334) The aid scheme must be established within three years from the date of the occurrence of the event, and the aid must be paid out within four years from that date.

<sup>(69)</sup> See definition of agricultural sector in point (35)2 of these Guidelines.

<sup>(70)</sup> Court of Justice, 11.11.2004, C 73/03, Spain v. Commission, par. 37; Court of Justice, 23.2.2006, C-346/03 and C-529/03, Giuseppe Atzeni and others, par. 79.

<sup>(71)</sup> The Commission did not accept that a fire at a single processing plant which was covered by normal commercial insurance could be considered as an exceptional occurrence. As a general rule the Commission does not accept that an outbreak of an animal disease or the occurrence of a plant pest may be considered as constituting natural disasters or exceptional occurrences. However, in one case the Commission did recognise the very widespread outbreak of a completely new animal disease as an exceptional occurrence.

- (335) In order to facilitate rapid crisis management, the Commission will authorize ex-ante framework aid schemes to compensate for the damage caused by earthquakes, avalanches, landslides and floods as well as by tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin, provided that the conditions under which aid can be granted in cases of such natural disasters are clearly stipulated<sup>(72)</sup>. In the case of ex-ante schemes Member States must comply with the reporting obligation set out in point (728).
- (336) Aid granted to compensate for the damage caused by other types of natural disasters not mentioned in point (330) and for damage caused by exceptional occurrences, must be individually notified to the Commission.

#### Eligible costs

- (337) The eligible costs are the costs of the damage incurred as a direct consequence of the natural disaster or exceptional occurrence, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking.
- (338) The damage may include the following:
- (a) material damage to assets such as buildings, equipment, machinery, stocks and means of production;
  - (b) loss of income resulting from the full or partial destruction of the agricultural production and the means of the agricultural production.
- (339) The damage must be calculated at the level of the individual beneficiary.
- (340) The calculation of the material damage must be based on the repair cost or economic value of the affected asset before the natural disaster or the exceptional occurrence. It must not exceed the repair cost or the decrease in fair market value caused by the natural disaster or by the exceptional occurrence, that is to say the difference between the property's value immediately before and immediately after the natural disaster or the exceptional occurrence.
- (341) The loss of income must be calculated by subtracting:
- (a) the result of multiplying the quantity of the agricultural products produced in the year of the natural disaster or the exceptional occurrence, 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 the exceptional occurrence or a three year average based on the five-year period preceding the natural disaster or the exceptional occurrence, excluding the highest and lowest entry by the average selling price obtained.
- (342) That amount may be increased by other costs incurred by the beneficiary due to the natural disaster or the exceptional occurrence and it must be reduced by any costs not incurred because of the natural disaster or the exceptional occurrence which would otherwise have been incurred by the beneficiary.
- (343) 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 an individual beneficiary in a given year.
- (344) The Commission will accept other methods for the calculation of damage provided it is satisfied that these are representative, not based on abnormally high yields and do not result in the overcompensation of any beneficiary. The measurement of the extent of the damage may be tailored to the specific characteristics of each type of product using:
- (a) biological indexes (quantity of biomass loss) or equivalent yield loss indexes established at farm, local, regional or national level; or
  - (b) weather indexes (including quantity of rainfall and temperature) established at local, regional or national level.

<sup>(72)</sup> Commission decisions on State aid in cases N 274b/2010, N 274a/2010, SA.33605, SA.33628, SA.36787.

Aid intensity

- (345) The aid and any other payments received to compensate the damage, including payments under insurance policies, must be limited to 100 % of the eligible costs.
- 1.2.1.2. Aid to compensate for damage caused by adverse climatic event which can be assimilated to a natural disaster
- (346) The Commission will consider aid to compensate for the damage caused by an adverse climatic event which can be assimilated to a natural disaster compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles and with the following conditions.
- (347) This Section applies to aid granted to compensate for damage caused by an adverse climatic event which can be assimilated to a natural disaster as defined in point (35).31. in these Guidelines. It applies only to undertakings active in the primary agricultural production.
- (348) Aid granted under this Section is subject to the following conditions:
- (a) the competent authority of the Member State concerned has formally recognized the character of the event as an adverse climatic event which can be assimilated to a natural disaster;  
and
  - (b) 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.
- (349) Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to in point (348)(a) is deemed to be granted.
- (350) In the case of ex-ante schemes, Member States must comply with the reporting obligation set out in point (728).
- (351) The aid must be paid directly to the undertaking concerned or to a producer group or organization of which that undertaking is a member. Where the aid is paid to a producer group or organization, the amount of aid must not exceed the amount of aid to which that undertaking is eligible.
- (352) Aid schemes must be established within three years from the date of the occurrence of the adverse climatic event which can be assimilated to a natural disaster. The aid must be paid out within four years from that date.

Eligible costs

- (353) The eligible costs are the damage incurred as a direct consequence of the adverse climatic event which can be assimilated to a natural disaster, as assessed either by a public authority, by an independent expert recognised by the granting authority or by an insurance undertaking.
- (354) The damage includes the following:
- (a) the material damage to assets such as farm buildings, equipment and machinery, stocks and means of production;
  - (b) the loss of income from the full or partial destruction of the agricultural production and the means of production.
- (355) The calculation of the damage incurred due to the adverse climatic event which can be assimilated to a natural disaster must be made at the level of the individual beneficiary.
- (356) The material damage to assets caused by the adverse climatic event which can be assimilated to a natural disaster must 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 must not exceed the repair cost or the decrease in fair market value caused by the adverse climatic event which can be assimilated to a natural disaster, that is to say the difference between the asset's value immediately before and immediately after the adverse climatic event which can be assimilated to a natural disaster.
- (357) Where the reduction of the beneficiary's income referred to in point (354) (b) is calculated on the basis of crop or livestock level, only the material damage related to that crop or livestock should be taken into account.

- (358) The loss of income must be calculated either at annual farm production level or at crop or livestock level 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.
- (359) That 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 amount must be reduced by any costs not incurred because of the adverse climatic event which can be assimilated to a natural disaster which would otherwise have been incurred by the beneficiary.
- (360) 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 an individual beneficiary in a given year.
- (361) The Commission will accept other methods for the calculation of damage provided that it is satisfied that these are representative, not based on abnormally high yields and do not result in overcompensation of any beneficiary. The measurement of the extent of the damage may be tailored to the specific characteristics of each type of product using:
- (a) biological indexes (quantity of biomass loss) or equivalent yield loss indexes established at farm, local, regional or national level; or
  - (b) weather indexes (including quantity of rainfall and temperature) established at local, regional or national level.

#### Aid intensity

- (362) The aid and any other payments received to compensate for the damage, including payments under other national or Union measures or insurance policies for the damage receiving aid, must be limited to 80 % of the eligible costs. The aid intensity may be increased to 90 % in areas facing natural constraints.
- (363) Aid granted under this Section must be reduced by 50 % unless it is given 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. Derogation from this condition is only possible if a Member State can convincingly show that, despite all reasonable efforts, affordable insurance covering the statistically most frequent climatic risks in the Member State or region concerned was not available at the time the damage occurred.
- 1.2.1.3. 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 and plant pests
- (364) The Commission will consider aid for the costs of the prevention, control and eradication of animal diseases or plant pests and aid to make good the damage caused by those animal diseases or plant pests compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.



- (365) This Section applies to aid granted to undertakings active in the primary agricultural production.
- (366) Aid may only be paid:
- (a) 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) as part of:
    - (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; or
    - (ii) emergency measures imposed by the competent public authority; or
    - (iii) measures to eradicate or contain a plant pest implemented in accordance with Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community <sup>(73)</sup>.
- (367) The programmes and measures referred to in point (366)(b) must contain a description of the prevention, control and eradication measures concerned.
- (368) The aid must not relate to measures in respect of which Union legislation provides that the cost of such measures is to be borne by the beneficiary, unless the cost of such aid measures is entirely offset by compulsory charges on the beneficiaries.
- (369) The aid must 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 must not exceed the amount of aid to which that undertaking is eligible.
- (370) No individual aid should be granted where it is established that the disease or the infestation with the plant pest was caused deliberately or by the negligence of the beneficiary.
- (371) As regards animal diseases, the aid may only be granted in respect of diseases referred to in the list of animal diseases established by the World Organisation for Animal Health or the animal diseases and zoonoses listed in Annexes I and II to Regulation (EU) No 652/2014 of the European Parliament and of the Council <sup>(74)</sup>.
- (372) Aid schemes must be introduced within three years from the date of the occurrence of the cost or damage caused by the animal disease or plant pest. Aid must be paid out within four years from that date.
- (373) In the case of ex-ante schemes Member States must comply with the reporting obligation set out in point (728).

#### Eligible costs

- (374) In the case of prevention measures, the aid must 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;

<sup>(73)</sup> Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1).

<sup>(74)</sup> Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC (OJ L 189, 27.6.2014, p. 1).

- (d) the purchase, storage, administration and distribution of vaccines, medicines, substances for the treatment of animals and plant protection products;
  - (e) the preventive slaughtering or culling of animals or the destruction of animal products and plants and the cleaning and disinfection of the holding and equipment;
- (375) In the case of control and eradication measures, the aid must cover the following eligible costs:
- (a) tests and other screening measures in the 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 slaughter or culling and destruction of animals and the destruction of products linked to them or destruction of plants, including those that die or are destroyed as a result of vaccination or other measures ordered by the competent public authorities and the cleaning and disinfection of the holding and equipment.
- (376) The aid in relation to eligible costs referred to in points (374) and (375) must be granted in kind and must be paid to the provider of the prevention and eradication measures with the exception of eligible costs referred to in points (374)(d) and (375)(b) and eligible costs referred to in points (374)(e) and (375)(c) in the case of plant pests and for the cleaning and disinfection of the holding and equipment .
- (377) In the case of aid to make good the damage caused by animal diseases or plant pests, compensation must be calculated only in relation to the following:
- (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 plant pest;
    - (ii) as part of a public programme or measure referred to in point (366)(b) of these Guidelines;
  - (b) the loss of income due to quarantine obligations and difficulties in restocking or replanting and obligatory crop-rotation imposed as part of a public programme or measure as referred to in point (366)(b).
- (378) That amount must 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.
- (379) The market value referred to in point (377)(a) must 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.
- (380) The aid referred to in point (377) must be limited to the 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; or
  - (b) has formally acknowledged their presence, in the case of plant pests.
- (381) In exceptional and duly justified cases, the Commission may accept the costs incurred in carrying out necessary measures other than those referred to in this Section.

#### Aid intensity

- (382) 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, must be limited to 100 % of the eligible costs.

#### 1.2.1.4. Aid for fallen stock

- (383) The Commission will consider aid for fallen stock compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

(384) This Section applies to undertakings active in the primary agricultural production.

Aid intensity in relation to eligible costs:

(385) In relation to the below listed eligible costs, the following aid intensities apply:

- (a) aid at a rate of up to 100 % of the costs for the removal of fallen stock, and 75 % of the costs for the destruction of such fallen stock; aid towards the costs of premiums for insurance covering the costs of the removal and destruction of fallen stock may be granted in accordance with the provisions of Section 1.2.1.6 of Part II of these Guidelines;
- (b) aid at a rate of up to 100 % of the costs for the removal and destruction of fallen stock where the aid is financed through fees or through compulsory contributions destined for the financing of the removal and destruction of such fallen stock, provided that such fees or contributions are limited to and directly imposed on the meat sector;
- (c) aid at a rate of 100 % of the costs for the removal and destruction of fallen stock where there is an obligation to perform TSE tests on the fallen stock concerned or in the case of an outbreak of an animal disease referred to in point (371) of these guidelines;

(386) The aid must be conditional on the existence of a consistent monitoring programme which ensures the safe disposal of all fallen stock in the Member State concerned.

(387) The aid must be provided in kind and must not involve direct payments to the beneficiaries, except where the livestock breeder who is the beneficiary of the aid acts also as service provider.

(388) In order to facilitate the administration of the aid, 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.

(389) In relation to fallen stock and slaughterhouse waste, the Commission will maintain its policy not to authorise aid for fallen stock given to operators active in the processing of agricultural products and the marketing of agricultural products and aid towards the costs of disposal of slaughterhouse waste. State aid for investments undertaken in relation to the disposal of slaughterhouse waste will be examined under the relevant rules applying to investment aid.

1.2.1.5. Aid to compensate for the damage caused by protected animals

(390) Damage to equipment, infrastructure, animals and plants caused by protected animals is a growing problem. The success of Union conservation policy depends partly on the effective management of conflicts between protected animals and farmers. As a consequence, and in respect of the principle of proportionality, the Commission will consider aid to compensate for the damage caused by protected animals compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

(391) This Section applies to undertakings active in the primary agricultural production.

(392) A minimum counterpart from the beneficiaries is requested to mitigate the risk of distortions of competition and to provide an incentive for minimising risk. This contribution must take the form of reasonable preventive measures, such as safety fences where possible, livestock guarding dogs, which are proportionate to the risk of damage caused by protected animals in the area concerned. If no reasonable preventive measures are possible, the Member State concerned should demonstrate the impossibility to take such preventive measures in order for the aid to be considered compatible.

(393) A direct causal link between the damage suffered and the behaviour of the protected animal must be established by the Member State.

- (394) Aid must 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 must not exceed the amount of aid to which that undertaking is eligible.
- (395) The aid scheme must be established within a period of three years from the date of the occurrence of the damaging event. The aid must be paid out within four years from that date.

#### Eligible costs

- (396) The eligible costs are the costs of the damage incurred as a direct consequence of the event that caused the damage, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking.
- (397) The damage may include the following:
- (a) damage for animals killed or plants destroyed: the eligible costs are based on the market value of the animal killed or of the plants destroyed by the protected animals;
  - (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 the following assets: to farm equipment, machinery and farm buildings and stocks; the calculation of the material damage must be based on the repair cost or economic value of the affected asset before the event that caused the damage; it must 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.
- (398) The amount must be reduced by any costs not incurred because of the event causing the damage, which would otherwise have been incurred by the beneficiary.
- (399) The damage must be calculated at the level of the individual beneficiary.
- (400) Investments related to measures to prevent damage by protected animals, may be supported under the conditions of the Section 1.1.1.1 of Part II of these Guidelines on investment aid in agricultural holdings.

#### Aid intensity

- (401) Compensation may be granted up to 100 % of the eligible costs.
- (402) Compensation for indirect costs must be proportionate to the direct costs and must not exceed 80 % of the total indirect eligible costs.
- (403) The aid and any other payments received to compensate for the damage, including payments under other national or Union measures or insurance policies for the damage receiving aid, must be limited to 100 % of the direct eligible costs and 80 % of the indirect eligible costs.

#### 1.2.1.6. Aid for the payment of insurance premiums

- (404) In many instances, insurance is a most helpful tool for good risk and crisis management. Therefore, and in view of the often reduced financing possibilities of farmers, the Commission takes a positive view as regards State aid for insurance premiums where the insurance concerns primary agricultural production.
- (405) The Commission will consider aid for the payment of insurance premiums compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (406) This Section applies to undertakings active in the primary agricultural production.
- (407) The aid must not constitute a barrier to the operation of the internal market for insurance services. In particular, the aid must not be limited to insurance provided by a single insurance company or group of companies, or be made subject to the condition that the insurance contract be taken out with a company established in the Member State concerned.
- (408) Reinsurance schemes will be examined on a case-by-case basis.

Eligible costs

- (409) The eligible costs are the costs of insurance premiums for insurance to cover the damage caused by natural disasters or exceptional occurrences, adverse climatic events which can be assimilated to a natural disaster, animal diseases and plant pests, the removal and destruction of fallen stock and damage caused by protected animals, as specified in Sections 1.2.1.1, 1.2.1.2, 1.2.1.3, 1.2.1.4 and 1.2.1.5, as well as by other adverse climatic events and/or damage caused by environmental incidents.
- (410) The insurance may compensate only the cost of making good the damage referred to in point (409) above and may not require or specify the type or quantity of future production.
- (411) In respect of aid for insurance premiums for insurance against losses caused by environmental incidents, the following additional conditions must be fulfilled: the occurrence of an environmental incident must be formally recognised as such by the competent authority of the Member State concerned. Member States may, where appropriate, establish in advance criteria on the basis of which that formal recognition is deemed to be granted. Indexes referred to in points (360) and (361) may be used in order to calculate the annual agricultural production of the beneficiary and the extent of the loss.

Aid intensity

- (412) The gross aid intensity must not exceed 65 % of the cost of the insurance premium, with the exception of aid for the removal and destruction of fallen stock, where the aid intensity must not exceed 100 % of the cost of the insurance premium as regards insurance premiums for the removal of fallen stock and 75 % of the cost of the insurance premium as regards insurance premiums for the destruction of such fallen stock.
- (413) Member States may limit the amount of the insurance premium that is eligible for aid by applying appropriate ceilings.

## 1.2.1.7. Aid for financial contributions to mutual funds

- (414) The Commission will consider aid for financial contributions to mutual funds to pay compensation to farmers for the damage caused by adverse climatic events which can be assimilated to a natural disaster, animal diseases and plant pests as specified in Sections 1.2.1.2. and 1.2.1.3. and/or for the damage caused by environmental incidents compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (415) This Section applies to undertakings active in the primary agricultural production.
- (416) The mutual fund concerned must:
- (a) be accredited by the competent authority in accordance with national law;
  - (b) have a transparent policy towards payments into and withdrawals from the fund;
  - (c) have clear rules attributing responsibilities for any debts incurred.
- (417) Member States must define the rules for the constitution and management of the mutual funds, in particular for the granting of compensation payments, as well as for the administration and monitoring of compliance with these rules. Member States must ensure that the fund arrangements provide for penalties in case of negligence on the part of the undertaking.

Eligible costs

- (418) Eligible are the costs of financial contributions to mutual funds to pay compensation to farmers for the damage caused by adverse climatic events which can be assimilated to a natural disaster, animal diseases and plant pests as specified in Sections 1.2.1.2. and 1.2.1.3. and/or for the damage caused by environmental incidents. The financial contributions may only relate to the amounts paid by the mutual fund as financial compensation to undertakings active in the primary agricultural production.

- (419) In respect of aid for financial contributions to mutual funds to pay compensation for the damage caused by environmental incidents, the following additional conditions apply: the occurrence of an environmental incident has to be formally recognised as such by the competent authority of the Member State concerned. Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to is deemed to be granted. Indexes referred to in points (360) and (361) may be used in order to calculate the annual agricultural production of the beneficiary and the extent of the loss.

#### Aid intensity

- (420) The aid must be limited to 65 % of the eligible costs.

- (421) Member States may limit the costs that are eligible for aid by applying:

- (a) ceilings per fund;
- (b) appropriate per member/affiliate to the fund ceilings.

#### *1.2.2. Aid for Closing Production Capacity*

- (422) This Section applies to the whole of the agricultural sector<sup>(75)</sup>.

##### *1.2.2.1. Closing of capacity for animal, plant or human health, sanitary, ethical or environmental reasons*

- (423) The Commission will consider aid for the closing of capacity compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (424) The closing of capacity is done for animal, plant or human health, sanitary, ethical or environmental reasons, such as the reduction of overall stocking densities.
- (425) There must be a sufficient counterpart from the beneficiary of the aid. This counterpart will consist of a definitive and irrevocable decision to scrap or irrevocably close the production capacity concerned. This will involve either the complete closure of capacity by the undertaking concerned or where duly justified, the partial closure of capacity. Legally binding commitments must be obtained from the beneficiary that the closure of the production capacity concerned is definitive and irreversible and that the beneficiary will not start the same activity elsewhere. These commitments must also bind any future purchaser of the land or facility concerned.
- (426) Only undertakings that have actually been producing, and only production capacities that have actually been in constant use over the past five years before the closing of capacity are eligible for aid. In cases where the production capacity has already closed definitively, or where such closure appears inevitable, there is no counterpart from the beneficiary, and aid may not be granted.
- (427) The Commission reserves the right to attach additional conditions to the authorisation of the aid.
- (428) Only undertakings fulfilling Union standards are eligible for aid. Undertakings which do not fulfil Union standards and which would be obliged to stop production anyway are excluded.
- (429) In order to avoid erosion and other negative effects on the environment, open farmland taken out of production must in principle be afforested or turned into nature area within a period of two years and in such a way as to ensure that negative effects on the environment are avoided. Alternatively, open farmland may be re-used after 20 years following effective capacity closure. Until then, such farmland must be maintained in good agricultural and environmental condition, in accordance with Chapter I of Title VI of Regulation (EU) No 1306/2013, and with the relevant implementing rules. The closure of installations covered by Directive 2010/75/EU of the European Parliament and of the Council<sup>(76)</sup> must be carried out in accordance with Articles 11 and 22 of that Directive which requires that the necessary measures are taken to avoid any pollution risk and that the site of operation is returned to a satisfactory state.

<sup>(75)</sup> See definition of agricultural sector at point (35)2 of these Guidelines.

<sup>(76)</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

(430) Aid granted under an aid scheme must be accessible to all eligible undertakings.

#### Eligible costs

(431) The aid covers the compensation for the loss of value of assets, measured as the current selling value of the assets.

(432) In addition to the compensation of loss of value of assets, for the closing of capacity for environmental reasons, an incentive payment, which may not exceed 20 % of the value of the assets, may be given.

(433) Compensation may also be granted for the costs of the destruction of the production capacity.

(434) The aid may also be paid to offset the obligatory social costs resulting from the implementation of the closure decision.

(435) Aid for afforestation and conversion of land into nature areas must be granted in accordance with the rules set out in Sections 2.1.1. and 2.1.2 of Part II and the rules on non-productive investment set out in Section 1.1.1.1 of Part II.

#### Aid intensity

(436) The maximum aid amounts are as follows:

(a) up to 100 % for compensation for the loss of value of assets, for compensation for the costs of the destruction of the production capacity and to offset the obligatory social costs resulting from the implementation of the closure decision;

(b) up to 120 % for compensation for the loss of value of assets where the closure is done for environmental reasons.

#### 1.2.2.2. Closing of capacity for other reasons

(437) The Commission will consider aid for the closing of capacity for other reasons than those laid down in Section 1.2.2.1. compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

(438) The closure must be done for the restructuring of the sector, for diversification or for early retirement.

(439) The conditions in points (425) to (429) must be fulfilled.

(440) No aid may be granted which would interfere with the mechanisms of the common organisation of the markets in agricultural products. Aid schemes applying to sectors which are subject to production limits or quotas will be evaluated on a case-by-case basis.

(441) The aid must be part of a programme which has defined objectives and a specific timetable aimed at the restructuring of the sector, at diversification or at early retirement.

(442) In order to ensure a rapid impact on the market, the duration of aid schemes aimed at closing capacity should be limited to a period of not more than six months for collecting applications for participation, and a further period of twelve months for actually closing down. The Commission will not accept aid schemes with duration of more than three years, since experience shows that these may result in postponing the necessary changes.

(443) The aid scheme should be accessible to all economic operators in the sector concerned under the same conditions. In order to achieve maximum impact, the Member State should use a transparent system of calls for interest which publicly invites all potentially interested undertakings to participate; at the same time, the organisation of the aid scheme should be managed in such a way that it neither requires nor facilitates anticompetitive agreements or concerted practices between the undertakings concerned.

Eligible costs and aid intensity

(444) The provisions on eligible costs and on aid intensity of Section 1.2.2.1 of Part II of these Guidelines are applicable, with the exception of the costs under point (432).

**1.3. Other types of aid in the agricultural sector****1.3.1. Aid to the livestock sector**

(445) The Commission takes a favourable view towards aid that contributes to the maintenance and improvement of the genetic quality of the Union livestock. It will therefore consider aid in the livestock sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

(446) This Section applies to SMEs active in the primary agricultural production. The Commission will not authorise State aid towards the costs covered by this Section in favour of large enterprises.

(447) The aid should be provided in kind and should not involve direct payments to the beneficiaries.

Eligible costs

(448) The aid covers the establishment and maintenance of herd books as well as 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.

(449) The eligible costs include:

(a) the following administrative costs of the establishment and maintenance of herd books referred to in point (448):

(i) the collection and administration of data on animals, for example, the origin of an animal, its date of birth, its date of insemination, its date of death and reasons for it and the expert's evaluation, actualisation and processing of the data necessary for the establishment and maintenance of herd books;

(ii) the administrative works relating to the registration of relevant data on animals in the herd books;

(iii) the actualisation of software for managing data in the herd books;

(iv) the on-line publication of information about herd books and of data from the herd books; or

(v) other related administrative costs;

(b) the following costs for the tests to determine the genetic quality or yield of livestock referred to in point(448):

(i) the costs of tests or controls;

(ii) related costs of the collection and evaluation of the data received from such tests and controls with regard to increasing the animal health and the level of environmental protection;

(iii) related costs of the collection and evaluation of the data received from such tests and controls aiming at assessing the genetic quality of animals for the implementation of advanced breeding techniques and for keeping the genetic diversity; or

(iv) other related costs.

Aid intensity

(450) The aid may be authorised up to 100 % for the financing of the administrative costs of the establishment and maintenance of herd books.

(451) The aid will be authorised up to 70 % for the costs of tests performed by or on behalf of third parties, to determine the genetic quality or yield of livestock.



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

- (452) The Commission will consider aid for the promotion of agricultural products compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (453) This Section applies to the whole agricultural sector<sup>(77)</sup>. The beneficiaries of aid for the organisation of competitions, trade fairs or exhibitions, referred to in point (464)(a) must be limited to SMEs.
- (454) The promotion activity must be designed either to inform the public about the characteristics of agricultural products, for example, by organising competitions, by participating in trade fairs and public relations activities, by the vulgarisation of scientific knowledge, or by publications with factual information or to encourage economic operators or consumers to buy the agricultural product in question by way of promotion campaigns.
- (455) The promotion campaign must be focused on products covered by quality schemes as referred to in point (282) or it must be generic in character and for the benefit of all producers of the type of product concerned.
- (456) The promotion campaign must comply with Article 2 of Directive 2000/13/EC<sup>(78)</sup> and, where appropriate, with specific labelling rules.
- (457) Member States must send representative samples of promotion material when notifying an aid or an aid scheme for a promotion campaign. If that material is not available at the time of the notification, a commitment should be taken to provide it at a later stage and in any case before the launching of the promotion campaign.
- (458) Promotion campaigns exceeding the notification threshold referred to in point (37)(b) must be notified individually.
- (459) The provision of promotion measures may be undertaken by producer groups or other organisation regardless of their size. Where the promotion measure is undertaken by producer groups or other organisations, participation must not be subject to membership of those groups or organisations and any contribution in terms of administration fees for the group or organisation must be limited to the cost of providing the promotion measure.
- (460) The aid must be granted:
- (a) in kind; or
  - (b) on the basis of reimbursement of real costs incurred by the beneficiary.
- (461) By way of derogation from point (460), aid for promotion campaigns must be granted only in kind by means of subsidised services.
- (462) Where the aid is granted in kind, the aid must not include direct payments to the beneficiaries but must be paid to the provider of the promotion measures.
- (463) The aid for symbolic prizes referred to in point (464)(a)(v) may only be paid to the provider of the promotion measures if the prize has been actually granted and upon presentation of a proof of the award.

#### Eligible costs

- (464) The costs eligible for aid for the promotion of agricultural products within the Union are the following:
- (a) concerning the organisation of and participation in competitions, trade fairs and exhibitions, provided that aid is accessible to all those eligible in the area concerned, based on objectively defined conditions:
    - (i) participation fees;
    - (ii) travel costs and costs for the transportation of animals;

<sup>(77)</sup> See definition of agricultural sector in point (35)2 of these Guidelines.

<sup>(78)</sup> Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (OJ L 109, 6.5.2000, p. 29).

- (iii) costs of publications and websites announcing the event;
- (iv) the rent of premises and stands and costs of their installation and dismantling;
- (v) symbolic prizes up to a value of EUR 1 000 per prize and per winner of a competition;
- (b) the costs of publications in print- and electronic media, websites, and spots in electronic media, on radio or television, aimed at presenting factual information about producers from a given region or producers of a given product, provided that the information is neutral and that all producers have equal opportunities to be represented in the publication;
- (c) the costs for the dissemination of scientific knowledge and factual information on
  - (i) quality schemes as referred to in point (282) open to agricultural products from other Member States and third countries;
  - (ii) generic agricultural products and their nutritional benefits and suggested uses for them;
- (d) the costs for consumer-targeted promotion campaigns organised in the media or at retail outlets as well as for all promotion material which is distributed directly to consumers.

Reference to particular undertaking, brand name or origin

- (465) The promotion activities referred to in point (464)(c) and promotion campaigns referred to in point (464)(d), and in particular promotion activities which are generic in character and for the benefit of all producers of the type of product concerned, must not mention any particular undertaking, brand name or origin. Promotion campaigns referred to in (464)(d) must not be earmarked for products of one or more particular company or companies.
- (466) However, the restriction on the reference to origin does not apply to promotion activities and promotion campaigns referred to in point (464)(c) and (d), focussed on products covered by quality schemes as referred to in point (282), provided the following conditions are fulfilled:
- (a) where the promotion activity focuses on Union-recognised denominations, it may refer to the origin of products provided that the reference corresponds exactly to that registered by the Union;
  - (b) where the activity concerns products covered by quality schemes other than schemes for Union-recognised denominations, the origin of the products may be mentioned provided it is secondary in the message. In order to determine whether the reference to origin is secondary, the Commission will take into account the overall amount of text and/or the size of the symbol including images as well as the general presentation referring to the origin as compared with the text and/or symbol referring to the key sales pitch, that is to say, the part of the promotion not focused on the origin of the product.

Aid intensity

- (467) The aid intensity for eligible costs, referred to in point (464)(a) to (c), will be up to 100 % of the eligible costs.
- (468) The aid intensity for promotion campaigns focussed on products covered by quality schemes, referred to in point (464)(d) in conjunction with point (455), may not exceed 50 % of the eligible costs of the campaign. If the sector contributes at least 50 % of the costs, irrespective of the form of the contribution, for example special taxes, the aid intensity may be up to 100 %<sup>(79)</sup>.
- (469) The aid intensity for generic promotion campaigns, referred to in point (464)(d) in conjunction with point (455), may cover up to 100 % of eligible costs.

<sup>(79)</sup> Case T-139/09, France c. Commission[2012]ECR.

Promotion in third countries

(470) The Commission will examine State aid for promotion in third countries and declare it to be compatible with the internal market under Article 107(3)(c) of the Treaty if the aid is in line with the conditions laid down in Regulation (EC) No 3/2008. However, the Commission will not declare compatible State aid for promotion which:

- (a) is granted to particular undertakings or to commercial brands;
- (b) risks endangering sales of or denigrates products from other Member States.

1.3.3. *Aid for the outermost regions and the smaller Aegean islands*

(471) The Commission will consider aid for the outermost regions and the smaller Aegean islands compatible with the internal market under Article 107(3) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

(472) This Section applies to the whole agricultural sector<sup>(80)</sup>.

(473) With regard to the outermost regions, in accordance with Article 23(4) of Regulation (EU) No 228/2013, Articles 107, 108 and 109 of the Treaty do not apply as concerns the following aids granted by Member States in conformity with that Regulation:

- (a) measures in favour of local agricultural productions under Chapter IV of that Regulation;
- (b) aids granted by France to the sugar sector under Article 23(3) of that Regulation;
- (c) aids for plant health programmes under Article 24 of that Regulation; and
- (d) aids granted by Spain for the production of tobacco in the Canary Islands under Article 28 of that Regulation.

(474) Save in those cases, State aid rules do apply for measures with regard to the outermost regions, with the following particularity: Article 23(1) of Regulation (EU) No 228/2013 provides that the Commission may authorize operating aid in the sectors producing, processing and marketing of agricultural products falling within the scope of Annex I to the Treaty, to which Articles 107, 108 and 109 of the Treaty apply, with a view to alleviating the specific constraints on farming in the outermost regions as a result of their isolation, insularity and extreme remoteness.

(475) With regard to the smaller Aegean islands, in accordance with Article 17(3) of Regulation (EU) No 229/2013, Articles 107, 108 and 109 of the Treaty do not apply to payments made under Chapters III and IV of that Regulation by Greece in conformity with that Regulation.

(476) Save in those cases, State aid rules do apply for measures with regard to the smaller Aegean islands, with the following particularity: Article 17(1) of Regulation (EU) No 229/2013 provides that the Commission may authorize operating aid in the sectors producing, processing and marketing of agricultural products falling within the scope of Annex I of the Treaty, to which Articles 107, 108 and 109 of the Treaty apply, with a view to alleviating the specific constraints on farming in the smaller Aegean islands as a result of their insularity, small size, mountainous terrain and climate, their economic dependency on a small number of products and their distance from markets.

<sup>(80)</sup> See definition of agricultural sector in point (35)2 of these Guidelines.

Eligible costs

(477) The additional transport costs of agricultural products which have been produced in the outermost regions and in the smaller Aegean islands are eligible for compensation subject to the following conditions:

- (a) the beneficiaries have their production activity in the outermost regions or in the smaller Aegean islands;
- (b) the aid is objectively quantifiable in advance on the basis of a fixed sum or per ton/kilometer ratio or any other relevant unit;
- (c) the additional transport costs are calculated on the basis of the journey of the products inside the national border of the Member State concerned using the means of transport which results in the lowest costs for the beneficiary, taking into account the external costs to the environment;
- (d) for outermost regions, the eligible additional transport costs may include the costs of transporting agricultural products from the place of their production to locations in outermost areas where they are further processed.

(478) The Commission will examine proposals to grant State aid for other costs than additional transport costs which is designed to meet the needs of the outermost regions and the smaller Aegean islands on a case-by-case basis, on the basis of the common assessment principles and the specific legal provisions applying to those regions, and having regard, if applicable, to the compatibility of the measures concerned with the rural development programmes for the regions concerned, and their effects on competition both in the regions concerned and in other parts of the Union.

1.3.4. *Aid for agricultural land consolidation*

(479) The Commission will consider aid for agricultural land consolidation compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

Eligible costs

(480) The eligible costs must be limited to the legal, administrative and survey costs of land consolidation.

Aid intensity

(481) The aid intensity must be up to 100 % of the real costs incurred.

1.3.5. *Aid for rescuing and restructuring undertakings in difficulty*

(482) Aid for rescuing and restructuring undertakings in difficulty in the agricultural sector will be assessed in accordance with the Community Guidelines on State aid for rescuing and restructuring firms in difficulty, as amended or replaced<sup>(81)</sup>.

(483) However, with regard to aid for rescuing and restructuring undertakings active in the primary agricultural production the following exceptions apply:

- (a) by way of derogation from point 79 of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty, the Commission may also exempt aid for SMEs from individual notification if the SME concerned does not meet any of the criteria set out in point 10 the Community Guidelines on State aid for rescuing and restructuring firms in difficulty;

<sup>(81)</sup> For the draft Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, please refer to the following website: [http://ec.europa.eu/competition/consultations/2013\\_state\\_aid\\_rescue\\_restructuring/index\\_en.html](http://ec.europa.eu/competition/consultations/2013_state_aid_rescue_restructuring/index_en.html)

- (b) the principle that rescue or restructuring aid should be granted once only also applies to the sector of primary agricultural production; however, instead of the period of 10 years, set out in Section 3.3 of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty, a five-year period will apply.

1.3.6. *Aid for research and development in the agricultural sector*

- (484) The Commission will consider aid for research and development in the agricultural sector compatible with the internal market under Article 107(3) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (485) This Section applies to the whole agricultural sector <sup>(82)</sup>.
- (486) The aided project must be of interest to all undertakings active in the particular agricultural sector or sub-sector concerned.
- (487) Prior to the date of the start of the aided project the following information must be published on the internet:
- (a) that the aided project is carried out;
  - (b) the goals of the aided project;
  - (c) an approximate date of the publication of the results expected from the aided project;
  - (d) the place of publication on the internet of the results expected from the aided project on the internet;
  - (e) reference that the results are available to all undertakings active in the particular agricultural sector or sub-sector concerned at no cost.
- (488) The results of the aided project must be made available on 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 must remain available on internet for a period of at least five years starting from the end date of the aided project.
- (489) Aid must be granted directly to the research and knowledge-dissemination organisation. The measure must not involve the provision of aid based on the price of the agricultural products to undertakings active in the agricultural sector.

Eligible costs

- (490) The eligible costs include 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;

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<sup>(82)</sup> See definition of agricultural sector in point (35)2 of these Guidelines.

- (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.

#### Aid intensity

(491) The aid intensity must be up to 100 % of the eligible costs.

(492) Aid for research and development in the agricultural sector which does not fulfil the above conditions will be assessed in accordance with the Framework for state aid for research and development and innovation<sup>(83)</sup>.

#### ***Chapter 2. Aid for the forestry sector which is co-financed by the EAFRD, granted as additional national financing to such co-financed measures or granted as a pure State aid***

- (493) The forestry sector falls outside of the scope of Article 42 of the Treaty and Annex I thereto. Articles 107, 108 and 109 of the Treaty apply to aid granted by Member States to the forestry sector. Despite the fact that the production of natural cork, unworked, crushed, granulated or ground, waste cork (CN heading 4501) and the production of castanea/chestnut (CN code 0802 41 00) falls under Annex I of the Treaty, aid for forestry activities related to those trees can fall under the present Chapter of the Guidelines.
- (494) In line with the Union's objective under Recital 20, Article 4 and Article 5 of Regulation (EC) No 1305/2013 aid for sustainable and climate friendly land use includes forest area development and sustainable management of forests. These Guidelines aim ensuring coherence with Regulation (EU) No 1305/2013 and with its implementing and delegated acts and with the general State aid principles. These principles affect eligible costs and aid intensities under these Guidelines.
- (495) The provisions of Chapter 2 of these Guidelines are without prejudice to the possibility of granting State aid for the forestry sector under Union rules common either to all sectors or to trade and industry, as referred in point (34) of these Guidelines. Aid for investments in energy saving and renewable energies are excluded from the scope of Chapter 2 of Part II of these Guidelines as such aid should comply with the Guidelines on State aid for environmental protection and energy 2014-2020, unless it is exempt from notification obligation. However, in line with Article 5(5)(c), Article 21(1)(e) and Article 26 of Regulation (EU) No 1305/2013, these Guidelines cover investments related to the use of wood as a raw material or energy source, which is limited to all working operations prior to industrial processing. These Guidelines do not apply to forest based industries.
- (496) Under this Chapter the Commission will declare State aid for the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if the aid complies with the common assessment principles of these Guidelines and the specific requirements laid down in Sections 2.1 to 2.9 below.

<sup>(83)</sup> OJ C 198, 27.6.2014, p. 1.

(497) The scope of this Chapter covers aid for the forestry sector as laid down in point (23)(b) of these Guidelines.

(498) The ownership structure and the management of forests across the Union is diverse. Articles 22 to 26 and Article 34 of Regulation (EU) No 1305/2013 lay down specific restrictions as to potential aid beneficiaries of EAFRD co-financed measures in the forestry sector. For forestry measures forming part of a rural development programme, benefiting from EAFRD support, the restrictions as to the scope of aid beneficiaries laid down in Regulation (EU) No 1305/2013 apply, except for the tropical or subtropical forests and to the woodland of the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean islands within the meaning of Regulation (EU) No 229/2013 and of the French overseas departments, in Sections 2.1.1 to 2.1.5 of Part II of these Guidelines. In order to complement the EU rural development policy, the restrictions as to potential beneficiaries do not apply to rural development like forestry measures, which are funded exclusively from national resources nor to the specific aid measures of Section 2.8 and 2.9 of Part II of these Guidelines. However as to investments in forestry technologies and in processing, mobilising and marketing of forest products and start-up of producer group as referred to in Section 2.1.5 and Section 2.7, respectively the limitations as to the size of eligible beneficiaries should always apply in accordance with in Article 26 and Article 27 of Regulation (EU) No 1305/2013.

## 2.1. Investments in forest area development and improvement of the viability of forests

(499) The Commission will consider aid for investments in forest area development and the improvement of viability of forests compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

(500) This Section concerns aid for afforestation and creation of woodland, the establishment of agro-forestry systems, the prevention and restoration of damage to forests from forest fires, natural disasters, adverse climatic events, catastrophic events, climate change related events, pest and disease outbreaks, investments improving the resilience and environmental value, as well as the mitigation potential of forest ecosystems and investments in forestry technologies and in the processing, in the mobilising and in the marketing of forest products.

(501) The EU Biodiversity 2020 strategy of 03 May 2011<sup>(84)</sup> encourages the establishment of forest management plans to ensure the sustainability of forestry, where Union funding is available. Therefore wherever Regulation (EU) No 1305/2013, so requires for specific forestry measure forming part of a rural development programme, for holdings above a certain size, to be determined by the Member States in their rural development programmes or otherwise, aid must be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as defined by the Ministerial Conference on the protection of Forests in Europe of 1993<sup>(85)</sup> ('sustainable forest management'). This requirement does not apply to forestry aid under these Guidelines which is funded exclusively from national budget.

<sup>(84)</sup> See Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, Our life insurance, our natural capital: an EU biodiversity strategy to 2020, COM (2011) 244 final.

<sup>(85)</sup> Second Ministerial Conference on the protection of Forests in Europe, 16-17 June 1993, Helsinki/Finland, 'Resolution H1- General Guidelines for the Sustainable Management of Forests in Europe'.

Eligible costs

(502) Working capital should not be considered as eligible cost for investments in the forestry sector. The following common eligible costs for investments are laid down in Article 45 of Regulation (EU) No 1305/2013.

- (a) 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; in exceptional and duly justified cases, the limit may be raised above the percentage for operations concerning environmental conservation;
- (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 remain eligible expenditure even where, based on their results, no expenditure under in points (a) and (b) is incurred;
- (d) acquisition or development of computer software and acquisitions of patents, licences, copyrights and trademarks;
- (e) the costs of establishing forest management plans and their equivalent instruments;
- (f) other costs connected to leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges may not be eligible costs.

(503) In addition, the objectives and the nature of the forestry measures foreseen in Regulation (EU) No 1305/2013 determine which operations, including one-off interventions, can be eligible for aid. For consistency with Regulation (EU) No 1305/2013, the eligible costs of forestry measures under these Guidelines are consistent with the eligible costs relevant for the specific forestry measure in Regulation (EU) No 1305/2013.

2.1.1. *Aid for afforestation and creation of woodland*

(504) The Commission will consider aid for afforestation and creation of woodland compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

Beneficiaries of the aid

(505) Aid for establishment costs and the annual premium may be granted to public and private land-holders and their associations.

(506) Aid for afforestation of land owned by public authorities or for fast growing trees covers only the costs of establishment. In the case of state-owned land, aid may be granted if the body managing such land is a private body or municipality.

Eligible costs

(507) Aid covers the costs of establishment of forest and woodland on agricultural and non-agricultural land. Aid in the form of an annual premium per hectare may furthermore be granted to cover the costs of agricultural income foregone and maintenance, including early and late cleanings, for a maximum period of twelve years.

(508) No aid may be granted for the planting of trees for short rotation coppicing, Christmas trees or fast growing trees for energy production. Species planted must be adapted to the environmental and climatic conditions of the area and comply with minimum environmental requirements.



(509) The following minimum environmental requirements apply in the context of the afforestation and creation of woodland:

- (a) the selection of species to be planted, of areas and of methods to be used must avoid the inappropriate afforestation of sensitive habitats such as peat lands and wetlands and negative effects on areas of high ecological value including areas under high natural value farming. On sites designated as Natura 2000 pursuant to Council Directive 92/43/EEC<sup>(86)</sup> and Directive 2009/147/EC of the European Parliament and of the Council<sup>(87)</sup> only afforestation consistent with the management objectives of the sites concerned and agreed with the Member State's authority in charge of implementing Natura 2000 must be allowed;
- (b) the selection of species, varieties, ecotypes and provenances of trees must take account of the need for resilience to climate change and to natural disasters and the pedologic and hydrologic condition of the area concerned, as well as of the potential invasive character of the species under local conditions as defined by Member States. The beneficiary must be required to protect and care for the forest at least during the period for which the premium for agricultural income foregone and maintenance is paid. This must include tending, thinning or grazing, as appropriate, in the interest of the future development of the forest and regulating competition with herbaceous vegetation and avoiding the building up of fire prone undergrowth material. As regards fast-growing species, Member States must define the minimum and maximum time before felling. The minimum time must not be less than 8 years and the maximum must not exceed 20 years;
- (c) in cases where, due to difficult environmental or climatic conditions, including environmental degradation, the planting of perennial woody species cannot be expected to lead to the establishment of forest cover as defined under the applicable national legislation, the Member State may allow the beneficiary to establish other woody vegetation cover. The beneficiary must provide the same level of care and protection as applicable to forests;
- (d) in the case of afforestation operations leading to the creation of forests of a size exceeding a certain threshold, to be defined by Member States, the operation must consist of either:
  - (i) the exclusive planting of ecologically adapted species and/or species resilient to climate change in the bio-geographical area concerned, which have not been found, through an assessment of impacts, to threaten biodiversity and ecosystem services, or to have a negative impact on human health; or
  - (ii) a mix of tree species which includes either at least 10 % of broadleaved trees by area, or a minimum of three tree species or varieties, with the least abundant making up at least 10 % of the area.

(510) In areas where afforestation is made difficult by severe pedo-climatic conditions aid may be provided for planting other perennial woody species such as shrubs or bushes suitable to the local conditions.

(511) The notification to the Commission should contain sound description demonstrating compliance with the conditions of point (509) above and justifications where any derogation applies.

#### Aid intensity

(512) Aid may be allowed up to 100 % of the eligible costs.

#### *2.1.2. Aid for the establishment of agro-forestry systems*

(513) The Commission will consider aid for the establishment of agro-forestry systems compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

<sup>(86)</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) ('Habitats Directive').

<sup>(87)</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) ('Birds Directive').

- (514) The aid may be granted for establishing land use systems in which trees are grown in combination with agriculture on the same land as defined in point (35)65. of these Guidelines.

#### Beneficiaries of the aid

- (515) The aid may be granted to private land-holders, municipalities and their associations.

#### Eligible costs

- (516) The aid covers the costs of the establishment and an annual premium per hectare may be granted to cover the costs of the maintenance for a maximum period of five years.
- (517) Member States must determine the minimum and maximum number of trees per hectare, taking account of local pedo-climatic and environmental conditions, forestry species and the need to ensure sustainable agricultural use of the land.

#### Aid intensity

- (518) The aid may be up to 80 % of the amount of the eligible investment costs for the establishment of agro-forestry systems, and up to 100 % of the amount of the annual premium.

#### *2.1.3. Aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to natural disaster, other adverse climatic events, plant pests and catastrophic events*

- (519) The Commission will consider aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to natural disaster, other adverse climatic events, plant pests, catastrophic events and climate change related events compatible with the internal market under Article 107(2)(b) or, as the case may be, Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

#### Beneficiaries of the aid

- (520) Aid may be granted to private and public forest holders and other private and public bodies and their associations.

#### Eligible costs

- (521) The aid covers the costs for:

- (a) the establishment of protective infrastructure; in the case of firebreaks aid may also cover aid contributing to maintenance costs; no aid may be granted for agricultural related activities in areas covered by agri-environment-climate commitments;
- (b) local, small-scale prevention activities against fire or other natural hazards, including the use of grazing 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 natural disaster, other adverse climatic events, plant pests, catastrophic events and climate change related events.

- (522) In the case of the restoration of forest potential, referred to point (521)(d), the aid must be subject to the formal recognition by the competent public authorities of the Member State that the before mentioned event has occurred and that either that event, or measures adopted in accordance with Directive 2000/29/EC to combat, eradicate or contain harmful organisms, has caused the destruction of at least 20 % of the relevant forest potential.

- (523) In the case of aid for prevention of damage to a forest from plant pests, the risk of the occurrence of the plant pest must be supported by scientific evidence and acknowledged by a scientific public organisation. Where relevant, the list of harmful organisms which may cause a plant pest must be provided in the notification.
- (524) Eligible operations must be consistent with the forest protection plan established by the Member States. For holdings above a certain size, to be determined by the Member States in the rural development programme, where the measure is co-financed by EAFRD, the aid must be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as defined by the Ministerial Conference on the protection of Forests in Europe of 1993, detailing the preventive objectives.
- (525) Only forest areas which are classified as a medium to high forest fire risk according to the forest protection plan established by the Member States should be eligible for aid for prevention of fire.
- (526) No aid may be granted for loss of income resulting from fires, natural disasters, adverse climatic events which can be assimilated to natural disaster, other adverse climatic events, plant pests, catastrophic events and climate change related events.

#### Aid intensity

- (527) Aid may be granted up to 100 % of the eligible costs.
- (528) Aid granted for the eligible costs as referred to in (521)(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, are limited to 100 % of the eligible costs.

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

- (529) The Commission will consider aid for investments improving the resilience and environmental value of forest ecosystems compatible with the internal market under Article 107(3)(c) of the Treaty if complies with the common assessment principles of these Guidelines and with the following conditions.

#### Beneficiaries of the aid

- (530) Aid may be granted to natural persons, private and public forest holders and other private law and public bodies and their associations.

#### Eligible costs

- (531) Investments should be aimed at the achievements of commitments for environmental aims for the provisions of ecosystem services and/or for the enhancement of the public amenity value of forests and woodland in the area concerned or the improvement of the climate change mitigation potential of ecosystems, without excluding economic benefits in the long term.

#### Aid intensity

- (532) Aid may be granted up to 100 % of eligible costs.

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

- (533) The Commission will consider aid for investments enhancing forestry potential or relating to processing, mobilising and marketing adding value to forest products compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

- (534) Member States must require compliance with minimum standards for energy efficiency for supported investments in renewable energy infrastructure, that consume or produce energy, where such standards exist at national level.
- (535) 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 is utilised, to be determined by the Member States.
- (536) Aid to bioenergy projects shall be limited to bioenergy meeting the applicable sustainability criteria laid down in Union legislation, including in Article 17(2) to (6) of Directive 2009/28/EC of the European Parliament and of the Council.

#### Beneficiaries of the aid

- (537) Aid may be granted to private forest holders, municipalities and their associations and to SMEs for investments. In the territories of Azores, Madeira, the Canary islands, the smaller Aegean islands within the meaning of Regulation (EEC) No 2019/93 and the French overseas departments aid may also be granted to undertakings that are not SMEs.

#### Eligible costs

- (538) Aid may be granted for investments enhancing forestry potential or relating to processing, mobilising and marketing adding value to forest products.
- (539) Investments related to the improvement of the economic value of forests must be justified in relation to the expected improvements to forests on one or more holdings and may include investments for soil-friendly and resource-friendly harvesting machinery and practices.
- (540) Investments related to the use of wood as a raw material or energy source must be limited to all working operations prior to industrial processing.

#### Aid intensity

- (541) The aid intensity must not exceed:

- (a) 75 % of the amount of the eligible costs in the outermost regions;
- (b) 75 % of the amount of the eligible costs in the smaller Aegean islands;
- (c) 50 % of the amount of the eligible costs in less developed regions and in all regions whose GDP per capita for the period of 1 January 2007 to 31 December 2013 was less than 75 % of the average of the EU-25 for the reference period but whose GDP per capita is above 75 % of the GDP average of the EU-27;
- (d) 40 % of the amount of the eligible costs in other regions.

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

- (542) The Commission will consider aid for investments in infrastructure related to the development, modernisation or adaptation of forestry compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

#### Eligible costs

- (543) The aid covers investment in tangible and intangible assets which concern infrastructure related to the development, modernisation or adaptation of forests, including access to forest land, land consolidation and improvement, and the supply and saving of energy and water.

#### Aid intensity

- (544) In the case of non-productive investments, investments aimed exclusively at improving the environmental value of forests and investments for forest roads, which are open to the public free of charge and which serve the multifunctional aspects of forest the aid intensity is limited to 100 % of the eligible costs.

(545) In the case of investments, which improve the short- or long term economic potential of forests, the aid intensity must be limited to:

- (a) 75 % of the amount of the eligible costs in the outermost regions;
- (b) 75 % of the amount of the eligible costs in the smaller Aegean islands;
- (c) 50 % of the amount of the eligible costs in less developed regions and in all regions whose GDP per capita for the period of 1 January 2007 to 31 December 2013 was less than 75 % of the average of the EU-25 for the reference period but whose GDP per capita is above 75 % of the GDP average of the EU-27;
- (d) 40 % of the amount of the eligible costs in other regions.

## 2.2. Aid for disadvantages related to Natura 2000 forest areas

(546) The Commission will consider State aid related to Natura 2000 forest areas compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

### Beneficiaries of the aid

(547) Aid may be granted to private forest holders and associations of private forest holders.

### Eligible costs

(548) Aid under this measure must be granted annually and per hectare of forest in order to compensate beneficiaries for the additional costs incurred and income foregone resulting from disadvantages in the areas concerned, related to the implementation of the Habitats Directive and the Birds Directive.

(549) The following areas may be eligible for aid:

- (a) Natura 2000 forest areas designated pursuant to the Habitats Directive and the Birds Directive;
- (b) other delimited nature protection areas with environmental restrictions applicable to forests which contribute to the implementation of Article 10 of the Habitats Directive; provided that, where the measure is co-financed by EAFRD as a rural development measure, per rural development programme, those areas do not exceed 5 % of the designated Natura 2000 areas covered by its territorial scope; for aid measures financed exclusively from national funds, this latter territorial restriction does not apply.

### Aid amount

(550) Aid must be limited to the following maximum amounts: EUR 500 per hectare per year maximum in the initial period not exceeding five years and EUR 200 per hectare per year maximum thereafter. These maximum amounts may be increased in duly substantiated cases taking into account specific circumstances to be justified in the rural development programmes or otherwise if the measure is financed exclusively from national funds.

## 2.3. Aid for forest-environment and climate services and forest conservation

(551) The Commission will consider aid for forest-environment and climate services and forest conservation compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.

(552) Aid under this measure must be granted per hectare of forest. For forest holdings above a certain threshold to be determined by Member States in their rural development programmes, aid must be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as defined by the Ministerial Conference on the protection of Forests in Europe of 1993.

- (553) Aid covers voluntary commitment(s) going beyond the relevant mandatory requirements established by the national forestry act or other relevant national legislation. In the case of an EAFRD co-financed rural development measure, the relevant mandatory requirement should be clearly identified and described in the rural development programme. In the case of aid measures financed exclusively from national funds, the relevant mandatory requirement should be identified and described in the State aid notification to the Commission.
- (554) Commitments must be undertaken for a period between five and seven years. However, where necessary and duly justified, Member States may determine a longer period for particular types of commitments. In the case of EAFRD co-financed rural development measure, it should be specified in the rural development programme. In the case of aid measures financed exclusively from national funds, it should be identified in the State aid notification.
- (555) Where relevant, the rules for area related payments laid down in Article 47 of Regulation (EU) No 1305/2013 and the relevant provisions of its delegated act should be complied with.

#### Beneficiaries of the aid

- (556) Aid may be granted to public and private forest holders and other private law and public bodies and their associations. In the case of state-owned forests, aid may only be granted if the body managing such a forest is a private body or a municipality.
- (557) Public and private entities are eligible for aid for the conservation and promotion of forest genetic resources for operations not covered otherwise in this Section.

#### Eligible costs and modalities of the aid

- (558) The aid compensates beneficiaries for all or part of the additional costs and income foregone resulting from the commitments made. Where necessary it may also cover transaction costs to a value of up to 20 % of the aid premium paid for the forest-environment commitments.
- (559) In duly justified cases for operations concerning environmental conservation, aid may be granted as a flat-rate or one-off payment per unit for commitments to renounce the commercial use of trees and forests, calculated on the basis of additional costs incurred and income foregone.
- (560) Aid may be provided for the conservation and promotion of forest genetic resources for operations not covered by the provisions under the above points within this Section.
- (561) Operations for the conservation of genetic resources in forestry must include the following:
- (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 the preparation of technical reports.

#### Aid amount

- (562) The aid, with the exception of aid for operations for the conservation of genetic resources as referred to in point (560) must be limited to the maximum amount of EUR 200 per hectare per year. That amount may be increased in duly substantiated cases taking into account specific circumstances to be justified in the rural development programmes or otherwise in the notification to the Commission.
- (563) For the conservation of forest genetic resources, the aid must be limited to 100 % of the eligible costs.

**2.4. Aid for knowledge transfer and information actions in the forestry sector**

- (564) The Commission will consider aid for knowledge transfer and information actions in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (565) Aid for knowledge transfer and information actions to benefit persons engaged in the forestry sector should comply with the applicable relevant conditions set out in Section 1.1.10.1 of Part II with the exception as to the conditions of point (294), the maximum aid amount included in point (298) and the possibility to pay the aid directly to the beneficiary in point (296).
- (566) The aid may cover short term forest management exchanges and forest visits.
- (567) The duration and the content of the short-term forest management exchange schemes and forest visits must be defined, in the case of EAFRD co-financed measure in the rural development programme, and in the case of nationally financed scheme in the notification to the Commission. Such schemes and visits must focus, in particular, on sustainable forestry methods and/or technologies, the development of new business opportunities and new technologies, and on the improvement of forest resilience.

**2.5. Aid for advisory services in the forestry sector**

- (568) The Commission will consider aid for advisory services in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (569) Aid for advisory services in the forestry sector to forest holders must be granted in accordance with the applicable relevant conditions specified under point 1.1.10.2 of Part II of these Guidelines, with the following additional provisions relating to forestry.

Eligible costs

- (570) Aid will be granted to help forest holders to benefit from the use of advisory services for the improvement of the economic and environmental performance as well as climate friendliness and resilience of their holdings, enterprise and/or investment.
- (571) Advice to forest holders must cover as a minimum the relevant obligations under the Habitats Directive, the Birds Directive and the Water Framework Directive. It may also cover issues linked to the economic and environmental performance of the forest holding.

**2.6. Aid for co-operation in forestry sector**

- (572) The Commission will consider aid for co-operation in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (573) Aid for co-operation involving at least two entities in the forestry sector or in the forestry and agricultural sectors must be granted in accordance with the conditions set out in Section 1.1.11. of Part II.
- (574) For the forestry sector the following additional provisions apply.

Eligible costs and aid intensities

- (575) Without prejudice to the costs referred to in Sections 1.1.11 of Part II of these Guidelines, aid for cooperation in the forestry sector may also relate to drawing up of forest management plans or equivalent.
- (576) Direct costs referred to in point (321)(d) and direct costs of specific projects linked to the implementation of a forest management plan or equivalent must be limited to the eligible costs and maximum aid intensities of investment aid in the forestry sector, as specified in Section 2.1 of Part II of these Guidelines on investment aid.
- (577) Aid for cooperation in the forestry sector may also relate to horizontal and vertical cooperation among supply chain actors in the sustainable production of biomass for energy production and industrial processes in compliance with Chapter 3.10 of Part II of these Guidelines.

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

- (578) The Commission will consider start-up aid for producer groups and organisations in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and with the following conditions.
- (579) 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 may be eligible for aid. The aid must be granted subject to the obligation of the Member State to verify that the objectives of the business plan have been reached within a period of five years from the date of recognition of the producer group or organisation.
- (580) The agreements, decisions and concerted practices concluded in the framework of the producer group or organisation must comply with the relevant provisions of competition law, and in particular with Articles 101 and 102 of the Treaty.
- (581) The aid must 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 forestry holdings and which are therefore in effect a single producers;
  - (b) other forestry associations which undertake tasks, such as mutual support and forestry management services, in the members' holding without being involved in the joint adaptation of supply to the market.

Beneficiaries of the aid

- (582) Aid is limited to producer groups and organisations which are SMEs. The Commission will not authorise State aid towards the costs in this Section in favour of large enterprises.
- (583) As an alternative to providing aid to producer groups or organisations, aid up to the same overall amount 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.



Eligible costs

- (584) The eligible costs include the costs of the rental of suitable premises, the acquisition of office equipment, including computer hardware and software, administrative staff costs, overheads and legal and administrative fees. Where premises are purchased, the eligible costs for premises must be limited to rental costs at market rates.
- (585) The aid must 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 its business plan.
- (586) Member States must pay the last instalment only after having verified the correct implementation of the business plan.

Aid intensity

- (587) The aid intensity must be up to 100 % of the eligible costs.
- (588) The total amount of aid must be limited to EUR 500 000. The aid must be degressive.

**2.8. Other aid to the forestry sector with ecological, protective and recreational objectives**

- (589) In accordance with its established policy during the period of from 1 January 2007 to 31 December 2013, in order to contribute to the maintenance and improvement of forests and to promote their ecological, protective and recreational function, the Commission will consider that State aid measures, with the primary objective to maintain, improve or restore ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem, are compatible with the internal market under Article 107(3)(c) of the Treaty, if the following conditions are fulfilled.
- (590) Member States should demonstrate that the measures directly contribute to maintaining or restoring the ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem.
- (591) No aid may be granted under this Section to forest based industries or for commercially viable extraction of timber or for transportation of timber or the processing of wood or other forestry resources into products or for energy generation. No aid may be granted for felling the primary purpose of which is the commercially viable extraction of timber or for restocking where the felled trees are replaced by equivalent ones.

Aid intensity

- (592) Aid for all measures described in this Section may be granted up to 100 % of the eligible costs.

Beneficiaries of the aid

- (593) Aid may be granted to undertakings active in the forestry sector.

**2.8.1. *Aid for specific forest actions and interventions with the primary objective to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape***

- (594) The Commission will consider aid for planting, pruning, thinning and felling of trees and other vegetation in existing forests, the removal of fallen trees, and the planning costs of such measures compatible with the internal market under Article 107(3)(c) of the Treaty if the aid complies with the common assessment principles and the common provisions applicable to Section 2.8 of Part II of these Guidelines, and where the primary objective of such measures is to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape.

**2.8.2. *Aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector***

- (595) The Commission will consider aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, the common provisions applicable to Section 2.8 of Part II of these Guidelines and with the following conditions.

(596) Aid may be granted for maintaining and improving the soil quality in forests and ensuring balanced and healthy tree growth.

(597) Measures may include soil improvement by fertilisation and other treatments to maintain its natural balance, reducing excessive vegetation density and ensuring sufficient water retention and proper drainage. Member States should demonstrate that the measures do not reduce biodiversity, cause nutrient leaching or adversely affect natural water ecosystems or water protection zones.

(598) Aid may cover the planning costs of such measures.

2.8.3. *Restoration and maintenance of natural pathways, landscape elements and features and natural habitat for animals in the forestry sector*

(599) The Commission will consider aid for the restoration and maintenance of natural pathways, landscape elements and features and natural habitat for animals in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, the common provisions applicable to Section 2.8 of Part II of these Guidelines and with the following conditions.

(600) Aid may be granted for the restoration and maintenance of natural pathways, landscape elements and features and the natural habitat for animals, including planning costs.

(601) Measures aiming at the implementation of the Habitats Directive and the Birds Directive are excluded from this type of aid, as they should be put in place in accordance with the conditions of Section 2.2. of Part II of these Guidelines.

2.8.4. *Aid for maintaining roads to prevent forest fires*

(602) The Commission will consider aid for maintain roads compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, the common provisions applicable to Section 2.8 of Part II of these Guidelines and with the following conditions.

(603) Aid for maintaining roads should aim for preventing forest fires. The link between the objective of the aid and the road maintenance should be demonstrated in the notification to the Commission.

2.8.5. *Aid to make good the damage in forests caused by animals regulated by law*

(604) The Commission will consider aid to make good the damage caused by animals regulated by law in forests compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, the common provisions applicable to Section 2.8 of Part II of these Guidelines and with the following conditions.

(605) For the forestry sector, animals regulated by law cover protected animals as defined in Point (35)28 and species subject to specific national legislation, where there is a demonstrated interest for preserving the population of the species.

(606) A minimum counterpart from the beneficiaries is required to mitigate the risk of distortions of competition and to provide an incentive for minimising risk. That contribution must take the form of reasonable preventive measures, such as safety fences where possible, which are proportionate to the risk of damage by the animals regulated in the forest area concerned. If no reasonable preventive measures are possible, Member State should demonstrate the impossibility to take such preventive measures in the notification to the Commission in order for the aid to be considered compatible.

(607) A direct causal link between the damage suffered and the behaviour of the animals must be established.

(608) Aid schemes related to a specific damaging event must be established within three years from the occurrence of the event causing the damage. The aid must be paid out within four years from that date.

(609) The damage must be calculated at the level of the individual beneficiary.

Eligible costs

- (610) The eligible costs are the costs of the damage incurred as a direct consequence of the event causing the damage, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking.
- (611) The damage may include the following:
- (a) damage to living trees. The aid may be granted to compensate for loss of stock and for restocking costs up to the market value of the stock destroyed by the regulated animals. When calculating the market value of the increment loss, the potential increment of the stock destroyed until the normal felling age may be taken into consideration;
  - (b) other costs incurred by the beneficiary due to the event causing the damage, such as treatment measures, including soil preparation for replanting and the products, appliances and materials necessary for such operations;
  - (c) the material damage to the following assets: forestry equipment, machinery and buildings. The calculation of the material damage must be based on the repair cost or economic value of the affected asset before the event caused the damage. It must not exceed the repair cost or the decrease in fair market value caused by the event, that is to say the difference between the property's value immediately before and immediately after the event that caused the damage.
- (612) The amount must be reduced by any costs not incurred because of the damaging event, which would otherwise have been incurred by the beneficiary.
- (613) Preventive measures against damage done by animals in forests can be supported under Section 2.1.4 of Part II of these Guidelines as protection of habitats and biodiversity-related actions.
- (614) Aid for restoring damage in forests caused by animals regulated by national law can be granted if the conditions of Section 2.1.3 are complied with.

Aid intensity

- (615) Compensation is allowed up to 100 % of the eligible costs.
- (616) The aid and any other payments received to compensate the damage, including payments under national or Union measures or insurance policies, is limited to 100 % of the eligible costs.

**2.8.6. Aid for establishing forest management plans**

- (617) The Commission will consider aid for forest management plans compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, the common provisions applicable to Section 2.8 of Part II of these Guidelines and with the following conditions.
- (618) Since the 2014-2020 rural development policy makes forest management plans or equivalent instruments a pre-condition for eligibility for aid under several measures, with a view to enhance the achievements of the rural development objectives, the Commission maintains its current policy that aid may be given for the establishment of forest management plans.
- (619) Aid must comply with the conditions of aid for advisory services in the forestry sector, as laid down in points (288), (289), (299) and (303) to (306) of Part II.

**2.9. Aid in the forestry sector aligned with the agricultural aid measures**

- (620) In the past, the Commission has established its policy that for specific, less distortive aid measures, rules are common for the agricultural and forestry sector.

- (621) Following the tendency to align agricultural and forestry policies where the aid is considered to be less distortive, the Commission will consider aid for research and development in the forestry sector and aid for forest land consolidation compatible with the internal market if the specific conditions of these sections are met.
- (622) The aid intensity must be limited to 100 % of the eligible costs.
- 2.9.1. *Aid for research and development in the forest sector*
- (623) The Commission will consider aid for research and development in the forest sector compatible with the internal market under Article 107(3) of the Treaty if it complies with the common assessment principles of these Guidelines, with the condition of Section 2.9 and with the following conditions.
- (624) The aided project should be of interest to all undertakings active in the particular forestry sectors or sub-sectors concerned.
- (625) Prior to the date of the start of the aided project the following information must be published on the internet:
- (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 results expected from the aided project;
  - (d) the place of publication of the results expected from the aided project on the internet;
  - (e) a reference that the results of the aided project are available to all undertakings active in the forestry sector or sub-sector concerned at no cost.
- (626) The results of the aided project must be made available on 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 must remain available on internet for a period of at least five years starting from the end date of the aided project
- (627) The aid should be granted directly to the research and knowledge-dissemination organisation and should not involve the provision of aid based on the price of the forestry products to undertakings active in the forestry sector.

#### Eligible costs

- (628) The aid must be limited to the following eligible costs:
- (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.

### 2.9.2. Aid for forestry land consolidation

- (629) The Commission will consider aid for forest land consolidation compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the condition of Section 2.9 and with the following conditions.

#### Eligible costs

- (630) The eligible costs must be limited to the incurred real legal, administrative and survey costs of land consolidation.

### **Chapter 3. Aids in rural areas which are co-financed by the EAFRD or granted as additional national financing to such co-financed measures**

#### Common provisions applicable to Chapter 3 of Part II of these Guidelines

- (631) Aid under Chapter 3 of Part II of these Guidelines should meet the following common condition: the aid must be granted in the framework of a rural development programme pursuant to and in conformity with Regulation (EU) No 1305/2013 either as aid co-financed by the EAFRD or as additional national financing to such aid.
- (632) The provisions of Chapter 3 are without prejudice to the possibility of granting State aid for rural areas under Union rules common either to all sectors or to trade and industry.
- (633) As regards to investments under Sections 3.1, 3.2, 3.6 and 3.10 of Chapter 3 of Part II of these Guidelines, the aid must comply with the following common provisions set out in points (634) to (639).
- (634) Investments in energy saving and renewable energies are excluded from the scope of Chapter 3 of Part II of these Guidelines. Such aid must comply with the Guidelines on State aid for environmental protection and energy 2014-2020, unless it is exempt from notification obligation.

#### Eligible costs for investments falling within the scope of Chapter 3 of Part II of these Guidelines

- (635) The eligible costs for investment aid measures falling within the scope of Chapter 3 of Part II of these Guidelines must be limited to the following costs:
- (a) the construction, acquisition, including leasing, or improvement of immovable property, with land purchased only being eligible to an extent not exceeding 10 % of total eligible costs of the operation concerned; however in exceptional and duly justified cases, a higher percentage may be permitted for operations concerning environmental conservation;
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
  - (c) the general costs linked to expenditure referred to in point (635)(a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies remain eligible expenditure even where, based on their results, no expenditure under point (635) (a) and (b) is incurred;
  - (d) investment in the following intangible assets: acquisition or development of computer software and acquisitions of patents, licences, copyrights and trademarks.
- (636) Costs, other than those referred to in point (635), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges will not be considered to be eligible costs.
- (637) Working capital is not eligible cost under Chapter 3 of Part II.

Aid intensity for investment measures under Chapter 3 of Part II of these Guidelines

(638) The aid intensity must not exceed:

- (a) in less developed regions:
  - (i) 50 % of the amount of the eligible costs for investment in regions whose GDP per capita is below 45 % of the EU-27 average;
  - (ii) 35 % of the amount of the eligible costs for investment in regions whose GDP per capita is between 45 % and 60 % of the EU-27 average;
  - (iii) 25 % of the amount of the eligible costs for investment in regions with a GDP per capita above 60 % of the EU-27 average;
- (b) in outermost regions: the maximum aid intensities set out in point (a) may be increased either by up to 20 percentage points in outermost regions that have a GDP per capita below or equal to 75 % of the EU-27 average or by up to 10 percentage points in other outermost regions;
- (c) in 'c' areas:
  - (i) 15 % of the amount of the eligible costs for investment in sparsely populated areas and in NUTS 3 regions or parts of NUTS 3 regions that share a land border with a country outside the EEA or the European Free Trade Association (EFTA);
  - (ii) 10 % of the amount of the eligible costs for investment in non-predefined 'c' areas;
  - (iii) in the former 'a' areas the aid intensities may be increased by up to 5 percentage points for the period from 1 July 2014 to 31 December 2017;
  - (iv) where a 'c' area is adjacent to an 'a' area, the maximum aid intensity allowed in the NUTS 3 areas or parts of NUTS 3 areas within that 'c' area which are adjacent to the 'a' area may be increased as necessary so that the difference in aid intensity between both areas does not exceed 15 percentage points;
- (d) with the exception of aid granted in favour of large investment projects, the maximum aid intensities set out in points (a) to (c) above may be increased by up to 10 percentage points for medium-sized undertakings and by up to 20 percentage points for micro and small undertakings;
- (e) in all other areas: 10 % of the amount of eligible costs for investment for medium-sized undertakings and 20 % of the amount of eligible costs for investment for micro and small undertakings;
- (f) the maximum aid intensity for large investment projects must be scaled down to the adjusted aid amount as defined in Point (35). of these Guidelines.

(639) Individual investment aid granted under a notified scheme remains subject to the notification obligation pursuant to Article 108(3) of the Treaty, if the aid from all sources exceeds the notification threshold, as specified in point (37)(c).

**3.1. Aid for investments concerning the processing of agricultural products into non-agricultural products, the production of cotton or investments in the creation and development of non-agricultural activities**

(640) The Commission will consider aid for investments concerning the processing of agricultural products into non-agricultural products, the production of cotton or investments in the creation and development of non-agricultural activities compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.

(641) Aid under this measure covers investment in tangible and intangible assets.

(642) This Section applies to aid for:

- (a) the processing of agricultural products where the output of the production process is a non-agricultural product;
- (b) the production of cotton, including the activity of ginning;
- (c) investments in non-agricultural activities which are granted to farmers or members of a farm household who diversify into non-agricultural activities and to micro and small undertakings and natural persons in rural areas.

### 3.2. Aid for basic services and village renewal in rural areas

(643) The Commission will consider aid for basic services<sup>(88)</sup> and village renewal in rural areas compatible with the internal market within the meaning of Article 107(3)(c) and Article 107(3)(d) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.

(644) Aid under this measure covers:

- (a) the drawing up and updating of plans for the development of municipalities and villages in rural areas and their basic services and of protection and management plans relating to Natura 2000 sites and other areas of high nature value;
- (b) investments in the creation, improvement or expansion of all types of small-scale infrastructures as defined in point (35)48, excluding investments in renewable energy and energy savings and broadband infrastructure;
- (c) investments in the setting-up, improvement or expansion of local basic services for the rural population, including leisure and culture, and the related infrastructure;
- (d) investments for public use in recreational infrastructure, tourist information and small-scale tourism infrastructure;
- (e) studies and 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;
- (f) 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.

(645) Investments under this measure are eligible for aid 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 must be consistent with any relevant local development strategy.

(646) Aid referred to in point (644)(e) should be granted for heritage which is formally recognised as cultural or natural heritage by the competent public authorities of a Member State.

<sup>(88)</sup> Articles 107, 108 and 109 of the Treaty apply to aid for basic services in rural areas, in so far as they constitute State aid within the meaning of Article 107(1) of the Treaty, taking also into account the interpretation of State aid given in the forthcoming Commission notice on the notion of aid.

Eligible costs

(647) 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) investment costs for tangible and intangible assets;
- (c) the costs for the preparation of studies associated with cultural and natural heritage, rural landscapes and high nature value sites; costs linked to environmental awareness actions;
- (d) the costs of capital works may be also eligible for aid referred to in point (644)(e).

Aid intensity

(648) The aid intensity for the activities under point (644)(a) and (b) must not exceed 100 % of the eligible costs.

(649) The aid intensity for activities under point (644)(c), (d) and (e) must not exceed 100 % of the eligible costs. The net revenues must be deducted from the eligible costs ex ante or through a clawback mechanism.

(650) The aid intensity for activities under point (644)(f) must not exceed the following amounts:

- (a) 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, 100 % of real costs incurred for such activities;
  - (b) where the relocation of the activities or the conversion of buildings or other facilities results, in addition to the dismantling, removal and re-building of existing facilities as referred to in point (650)(a), in a modernisation of these facilities or in an increase in production capacity, the aid intensities for investments laid down in point (638) should apply in respect to the costs relating to the modernisation of the facilities or the increase of production capacity.
- (651) For the purpose of point (650) (b), 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 will not be considered to be related to the modernisation.

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

(652) The Commission will consider business start-up aid for non-agricultural activities in rural areas compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.

(653) Aid may be granted to farmers or members of the farm household diversifying into non-agricultural activities and to micro- and small undertakings and to natural persons in rural areas. Aid for the setting up of farm management, farm relief and farm advisory services, as well as forestry advisory services, including the Farm Advisory System referred to in Articles 12 to 14 of Regulation (EU) No 1306/2013 may be granted also to medium-sized and large enterprises in rural areas.

(654) The aid must be conditional on the submission of a business plan. Implementation of the business plan has to start within nine months from the date of the decision granting the aid.

(655) The business plan must describe at least the following:

- (a) the initial economic situation of the beneficiary applying for aid;
- (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 or other activity.



- (656) The aid must be paid in at least two instalments over a maximum period of five years. The instalments may be degressive. The payment of the last instalment must be conditional upon the correct implementation of the business plan.
- (657) In determining the amount of aid, Member States must also take into account the socio-economic situation of the programme area.

#### Aid amount

- (658) The aid amount must be limited to EUR 70 000 per undertaking. Member States must define the amount of aid also taking into account the socio-economic situation of the area concerned.

#### **3.4. Aid for agri-environment-climate commitments to other land managers and undertakings in rural areas not active in the agricultural sector**

- (659) The Commission will consider aid for agri-environment-climate commitments to other land managers and to undertakings in rural areas not active in the agricultural sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.
- (660) The aid must be granted in accordance with the applicable relevant conditions set out in point 1.1.5.1 of Part II of these Guidelines, with the following additional provisions relating to other land managers.
- (661) Aid for agri-environment-climate commitments may be granted to groups formed of undertakings active in the agricultural sector and other land managers who undertake, on a voluntary basis, to carry out operations consisting of one or more agri-environment-climate commitments on agricultural land to be defined by Member States, including but not limited to the agricultural area as defined under (35).50 of these Guidelines.
- (662) Where duly justified to achieve environmental objectives, aid for agri-environment-climate commitments may be granted to other land-managers or groups of other land-managers.
- (663) Aid to undertakings in rural areas which are not active in the agricultural sector may be provided for the conservation and for the sustainable use and development of genetic resources in agriculture for operations not covered by the provisions under points (208) to (219) of Section 1.1.5.1. of Part II of these Guidelines.

#### **3.5. Aid for disadvantages related to Natura 2000 areas to other land managers**

- (664) The Commission will consider aid for disadvantages related to Natura 2000 areas to other land managers compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.
- (665) Aid may be granted to other land managers only in duly justified cases.

#### Eligible costs

- (666) Aid may be granted to compensate other land managers for the additional costs and income foregone resulting from disadvantages in the areas concerned, related to the implementation of the Habitats Directive and the Birds Directive.
- (667) Measures undertaken only in the following areas are eligible for aid:
- (a) Natura 2000 agricultural areas designated pursuant to Habitats Directive and the Birds Directive;
  - (b) other delimited nature protection areas with environmental restrictions applicable to farming which contribute to the implementation of Article 10 of the Habitats Directive.

Aid amount

- (668) Aid must be limited to the following amounts: EUR 500 per hectare per year maximum in the initial period not exceeding five years; EUR 200 per hectare per year maximum thereafter. The maximum amounts of EUR 500 and EUR 200 may be increased in exceptional cases taking into account specific circumstances to be justified.

**3.6. Aid for knowledge transfer and information actions in rural areas**

- (669) The Commission will consider aid for knowledge transfer and information actions in rural areas compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.
- (670) Aid under this measure covers vocational training and skills acquisition actions (including training courses, workshops and coaching), demonstration activities and information actions. Aid may be granted also for the training of advisors linked to the advisory services referred to in Section 1.1.10.2. and Sections 2.5. and 3.7. of Part II.
- (671) Aid can be granted in favour of persons engaged in the food sector, other land managers than undertakings active in the agricultural sector and SMEs in rural areas. Aid for the training of advisors may be granted also in favour of large enterprises in rural areas.
- (672) Aid may be granted in respect of the following eligible costs:
- (a) the costs of organising and delivering the knowledge transfer or information action;
  - (b) in case of demonstration projects, aid may also cover relevant investment costs;
  - (c) the costs for travel, accommodation and per diem expenses of participants.
- (673) The aid referred to in point (672)(a) and (b) must not involve direct payments to the beneficiaries. The aid must be paid to the provider of training or other knowledge transfer and information action.
- (674) The aid must be accessible to all those eligible undertakings active in the rural area concerned, based on objectively defined conditions.
- (675) Bodies providing knowledge transfer and information services must have the appropriate capacities in the form of staff qualifications and regular training to carry out this task.

Aid intensity

- (676) The aid intensity must be limited to 50 % of the eligible costs in the case of large enterprises, to 60 % in the case of medium-sized enterprises and to 70 % in the case of micro and small enterprises. Aid for training for advisors must be limited to EUR 200 000 per three years.

**3.7. Aid for advisory services in rural areas**

- (677) The Commission will consider aid for advisory services in rural areas compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.
- (678) Aid should be granted to help other land managers and SMEs in rural areas benefit from the use of advisory services for the improvement of the economic and environmental performance as well as climate friendliness and resilience of their enterprise and/or investment.
- (679) Advice to SMEs in rural areas may cover issues linked to the economic and environmental performance of the beneficiary.

- (680) Advice to other land managers in rural areas should cover as a minimum one of the elements set out in point (301) of Section 1.1.10.2. of Part II of these Guidelines. It may also cover other issues, as referred to in point (302).
- (681) The aid must not involve direct payments to the beneficiaries. The aid must be paid to the provider of advisory services.
- (682) When providing advice, the providers of advisory services must respect the non-disclosure obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013.
- (683) Where justified and appropriate, the advice may be partly provided in group, while taking into account the situations of the individual user of advisory services.

#### Aid intensity

- (684) Aid must be limited to EUR 1 500 per advice.

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

- (685) The Commission will consider aid for new participation of active farmers in quality schemes for cotton or foodstuffs compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.
- (686) The aid concerns the first participation of active farmers in one of the following categories of quality schemes:
- (a) quality schemes for cotton or foodstuffs established by Union legislation;
  - (b) quality schemes for cotton or foodstuffs recognised by the Member States as complying with the following criteria:
    - (i) the specificity of the final product produced under such quality schemes must be derived from a clear obligations to guarantee
      - specific product characteristics; or
      - specific farming or production method; or
      - 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 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 assures complete traceability of agricultural products;
  - (c) voluntary agricultural product certification schemes recognised by the Member States as meeting the Union best practice Guidelines for the operation of voluntary certification schemes relating to agricultural products.

Eligible costs

(687) The aid must be granted in the form of an annual incentive payment, to be determined according to the level of the fixed costs arising from participation in the quality schemes.

(688) The aid may be granted for a maximum period of five years.

Aid amount

(689) The aid must be limited to EUR 3 000 per beneficiary per year.

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

(690) The Commission will consider aid for information and promotion activities concerning cotton and foodstuffs covered by a quality scheme compatible with the internal market within under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.

Eligible costs

(691) Aid may be granted for information and promotion activities concerning cotton and foodstuffs which are covered by a quality scheme for which aid is granted under Section 3.8. of Part II of these Guidelines.

(692) The aid may be granted to groups of producers implementing the information and promotion activities.

(693) The aid must cover the costs for actions having the following characteristics:

(a) be designed to induce consumers to buy the foodstuffs or the cotton covered by a quality scheme;

(b) draw 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.

(694) The actions referred to in point (693) must not incite consumers to buy a foodstuff or cotton due to their particular origin, except for those covered by the quality schemes introduced by Title II of Regulation (EU) No 1151/2012.

(695) The origin of the foodstuff or cotton may, nevertheless, be indicated, provided that the mention of the origin is subordinate to the main message.

(696) Information and promotion activities related to particular undertakings or of commercial brands are not eligible for aid.

(697) Only information and promotion activities implemented in the internal market are eligible.

Aid intensity

(698) The aid intensity must be up to 70 % of the eligible costs.

**3.10. Aid for co-operation in rural areas**

(699) The Commission will consider aid for co-operation in rural areas compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.

- (700) The aid should be granted in order to promote forms of co-operation among undertakings active in the agricultural sector, undertakings active in the food chain and other actors that contribute to achieving the objectives and priorities of rural development policy, including producer groups, cooperatives and inter-branch organizations, where the cooperation benefits rural areas.
- (701) The co-operation must involve at least two entities, and may relate in particular to
- (a) co-operation approaches;
  - (b) the creation of clusters and networks;
  - (c) the establishment and operation of operational groups of the EIP for agricultural productivity and sustainability as referred to in Article 56 of Regulation (EU) No 1305/2013.
- (702) The aid may be granted to cooperation relating to the following activities:
- (a) pilot projects;
  - (b) the development of new products, practices, processes and technologies in the food sector;
  - (c) co-operation among small operators in organizing joint work processes and sharing facilities and resources and for the development and/or marketing of tourism services relating to rural tourism;
  - (d) horizontal and vertical co-operation among supply chain actors for the establishment and development of short supply chains and local markets;
  - (e) promotion activities in a local context relating to the development of short supply chain and local markets;
  - (f) joint actions undertaken with a view to mitigating or adapting to climate change;
  - (g) joint approaches to environmental projects and ongoing environmental practices, including efficient water management, the use of renewable energy and the preservation of agricultural landscapes;
  - (h) horizontal and vertical cooperation among supply chain actors in the sustainable provision of biomass for use in food and energy production and industrial processes;
  - (i) implementation, in particular by groups of public and private partners other than those defined in point (b) of Article 32(2) of Regulation (EU) No 1303/2013, of local development strategies other than those defined in Article 2(19) of Regulation (EU) No 1303/2013 addressing one or more of the Union priorities for rural development;
  - (j) diversification of farming activities into activities concerning health care, social integration, community-supported agriculture and education about the environment and food.
- (703) Aid for the creation of clusters and networks can be granted only to newly formed clusters and networks and those commencing an activity that is new to them.
- (704) Aid for pilot projects referred to in point (702)(a) and for the development of new products, practices, processes and technologies in the food sector referred to in point (702)(b) may be granted also to individual actors where this possibility is provided for in the rural development programme. The results of pilot projects under point (702)(a) and activities under (702)(b) carried out by individual actors must be disseminated.

- (705) Aid for the establishment and development of short supply chains, as referred to in point (702)(d) and (e) must cover only supply chains involving no more than one intermediary between farmer and consumer.
- (706) Aid under this Section must comply with the relevant provisions of competition law, in particular with Articles 101 and 102 of the Treaty.
- (707) Aid must be limited to a maximum period of seven years except for collective environmental action in duly justified cases.

#### Eligible costs

(708) Aid may be granted to cover the following eligible costs:

- (a) costs for studies of the area concerned, feasibility studies, and the drawing up of a business plan or local development strategy other than the one referred to in Article 33 of Regulation (EU) No 1303/2013;
  - (b) costs for the animation of the area concerned in order to make feasible a collective territorial project or a project to be carried out by an operational group of the EIP for Agricultural Productivity and Sustainability as referred to in Article 56 of Regulation (EU) No 1305/2013; in the case of clusters, the animation may also concern networking between members and the recruitment of new members;
  - (c) the running costs of co-operation, such as the salary of a 'co-ordinator';
  - (d) the direct costs of specific projects linked to the implementation of a business plan, an environmental plan, a local development strategy other than the one referred to in Article 29 of Regulation (EU) No 1303/2013 or other actions targeted towards innovation, including testing;
  - (e) costs for promotion activities.
- (709) Direct costs under point (708)(d) must be limited to the eligible costs of investment aid, as specified in points (635) to (636) and must comply with the specific conditions referred to in point (634).

#### Aid intensity

- (710) The aid intensity for eligible costs referred to in point (708)(a), (b), (c) and (e) must not exceed 50 %.
- (711) The aid intensity for direct costs under point (708)(d) must not exceed those specified in point (638) of these Guidelines, including the scaling down mechanism for large investment projects. The aid intensity which applies to the area in which the investment is located will apply to all beneficiaries participating in the co-operation project. If the investment is located in two or more areas, the maximum aid intensity for the investment will be the one applicable in the area where the largest part of the eligible costs are incurred.
- (712) The notification threshold referred to in point (639) applies to aid for direct costs related to investments under point (708)(d).

### **3.11. Aid for setting-up of mutual funds**

- (713) The Commission will consider aid for the setting up of mutual funds compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, with the common provisions applicable to Chapter 3 of Part II of these Guidelines and with the following conditions.

(714) The mutual fund concerned must:

- (a) be accredited by the competent authority in accordance with national law;
- (b) have a transparent policy towards payments into and withdrawals from the fund;
- (c) have clear rules attributing responsibilities for any debts incurred;
- (d) pay financial contribution to undertakings active in the primary agricultural production for losses caused by adverse climatic events which can be assimilated to a natural disaster and animal diseases and plant pests as specified in Sections 1.2.1.2. and 1.2.1.3. of Part II of these Guidelines and/or losses caused by environmental incidents.

(715) Member States must define the rules for the constitution and management of the mutual funds, in particular for the granting of compensation payments as well as for the administration and monitoring of compliance with these rules. Member States must ensure that the fund arrangements provide for penalties in case of negligence on the part of the undertaking.

#### Eligible costs

(716) The aid above may only relate to the administrative costs of setting up the mutual fund, spread over a maximum period of three years in a degressive manner. Member States may limit the costs that are eligible for aid by applying ceilings per fund.

(717) No aid may be given to initial capital stock.

#### Aid intensity

(718) Aid must be limited to 65 % of the eligible costs.

### **PART III. PROCEDURAL MATTERS**

#### **1. *Duration of aid schemes and evaluation***

(719) Following the established practice in its previous Guidelines, in order to contribute to transparency and to the regular review of all existing aid schemes, the Commission will only authorise aid schemes of limited duration. Schemes covering State aid for measures that can also benefit from EAFRD co-financing under Regulation (EU) No 1305/2013 should be limited to the duration of the programming period 2014-2020. Where Union law so allows, and in accordance with the conditions set out therein, Member States may continue to make new commitments for rural development on the basis of Regulation (EU) No 1305/2013 and its implementing regulation. The Commission will therefore apply these Guidelines also to such new commitments. Other aid schemes should not apply for a period of more than seven years.

(720) To further ensure that distortions of competition and trade are limited, the Commission may require that certain schemes are subject to a time limitation (of normally four years or less) and to the evaluation referred to in point (40). Evaluations will be carried out for schemes where the potential distortions of competition are particularly high, that is to say, that may risk to significantly restrict or distort competition if their implementation is not reviewed in due time.

(721) Given the objectives of the evaluation and in order not to impose a disproportionate burden on Member States in respect of smaller aid amounts, evaluation only applies for aid schemes with large aid budgets, containing novel characteristics or when significant market, technology or regulatory changes are foreseen. The evaluation must be carried out by an expert independent from the aid granting authority on the basis of a common methodology and must be made public. Member States must notify, together with the relevant aid scheme, a draft evaluation plan, which will be an integral part of the Commission assessment of the scheme.

- (722) In the case of aid schemes excluded from the scope of a block exemption Regulation exclusively on the grounds of their large budget, the Commission will assess their compatibility solely on the basis of the evaluation plan.
- (723) The evaluation must be submitted to the Commission in due time to allow for the assessment of the possible prolongation of the aid scheme and in any case upon its expiry. Any subsequent aid measure with a similar objective must take into account the results of the evaluation.

## 2. **Revision clause**

- (724) A revision clause should be provided for operations undertaken pursuant to Sections 1.1.5.1 and 1.1.5.2., Section 1.1.8 and Sections 2.3. and 3.4. of Part II, in order to ensure their adjustment in the case of amendments of the relevant mandatory standards, requirements or obligations referred to in those Sections beyond which the commitments referred to in those Sections have to go.
- (725) Operations undertaken pursuant to Sections 1.1.5.1 and 1.1.5.2., Section 1.1.8 and Sections 2.3. and 3.4. of Part II which extend beyond the rural development programming period 2014-2020 should contain a revision clause in order to allow for their adjustment to the legal framework of the following programming period.
- (726) If the adjustments referred to in points (724) and (725) are not accepted or not implemented by the beneficiary, the commitment will expire and the aid amount should be reduced to the aid amount corresponding for the period until the expiry of the commitment.

## 3. **Reporting and monitoring**

- (727) In accordance with Council Regulation (EC) No 659/1999<sup>(89)</sup> and Commission Regulation (EC) No 794/2004<sup>(90)</sup> and their subsequent amendments, Member States must submit annual reports to the Commission.
- (728) The annual report must contain also information concerning the following:
- (a) animal diseases or plant pest concerned under Section 1.2.1.3;
  - (b) meteorological information on the type, timing, relative magnitude and location of the climatic event which can be assimilated to a natural disaster or natural disasters under Sections 1.2.1.1 and 1.2.1.2 respectively.
- (729) The Commission reserves the right to seek additional information on existing aid schemes on a case by case basis, where this is necessary to enable it to fulfil its responsibilities under Article 108(1) of the Treaty.
- (730) Member States must ensure that detailed records regarding all measures involving the granting of aid are maintained. Such records must contain all information necessary to establish that all conditions of these Guidelines regarding, where applicable, eligible costs and maximum allowable aid intensity have been observed. These records must be maintained for 10 years from the date of granting the aid and must be provided to the Commission upon request.

## 4. **Application of these Guidelines**

- (731) The Commission will apply these Guidelines from 1 July 2014.
- (732) The Commission will apply these Guidelines to all notified aid measures in respect of which it is called upon to take a decision after 1 July 2014, even where the aid was notified prior to that date. However, individual aid granted under approved aid schemes and notified to the Commission pursuant to an obligation to notify such aid individually will be assessed under the Guidelines that apply to the approved aid scheme on which the individual aid is based.
- (733) Unlawful aid will be assessed in accordance with the rules in force on the date of granting the aid. Individual aid granted under an unlawful aid scheme will be assessed under the Guidelines that apply to the unlawful aid scheme at the time the individual aid was granted.

<sup>(89)</sup> Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 83, 27.3.1999, p. 3).

<sup>(90)</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1).



- (734) The former Community Guidelines for State aid in the Agriculture and Forestry sector 2007 to 2013 are repealed as of the date of application of these Guidelines. For EAFRD co-financed rural development measures, where Union law so allows, and in accordance with the conditions set out in the rural development rules, Member States may continue to make new commitments under the former Guidelines for State aid in the Agriculture and Forestry sector 2007 to 2013 in accordance with its Point 189<sup>(91)</sup>.

5. ***Proposals for appropriate measures***

- (735) In accordance with Article 108(1) of the Treaty the Commission proposes that Member States amend their existing aid schemes to conform with these Guidelines by 30 June 2015 at the latest. With regard to this delay, the following derogations apply:
- (a) existing aid schemes, where the compatibility assessment under the Community Guidelines for State aid in the Agriculture and Forestry sector 2007-2013 had been carried out by the Commission in line with Regulation (EC) No 1857/2006, have to conform with these Guidelines as of 1 January 2015, at the latest;
  - (b) existing aid schemes for meeting standards under Sub-chapter IV.E. of the Community Guidelines for State aid in the Agriculture and Forestry sector 2007-2013 and aid for purchase of forestry land used as nature protection areas have to be put to end by 30 June 2016;
  - (c) existing aid schemes for tax exemptions and reductions under Directive 2003/96/EC referred to in Sub-chapter VI.F of the Community Guidelines for State aid in the Agriculture and Forestry sector 2007-2013 have to conform with the applicable horizontal rules of the Guidelines on State aid for environmental protection and energy 2014-2020 by 30 June 2016 unless such aid is exempt from notification obligation;
  - (d) existing aid schemes for early retirement should be phased out by 31 December 2018, at the latest.
- (736) The Member States are invited to give their explicit unconditional agreement to these proposed appropriate measures within two months from the date of publication of these Guidelines in the Official Journal of the European Union. In the absence of any reply, the Commission will assume that the Member State in question does not agree with the proposed measures.

6. ***Expiry***

- (737) These Guidelines will be applicable until 31 December 2020. The Commission may decide to review or amend these Guidelines at any time if this should be necessary for reasons associated with competition policy or to take account of other Union policies, such as agricultural and rural development or human and animal health, plant protection and environmental policy considerations, and international commitments, or for any other justified reason.

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<sup>(91)</sup> As modified on 19 November 2013, OJ C 339, 20.11.2013, p. 1.