Evaluation study of the instruments applicable to State aid in the agricultural and forestry sectors and in rural areas

Final Report

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Directorate-General for Agriculture and Rural Development

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ABSTRACT

The objective of this evaluation study is to carry out an assessment of the rules of the agricultural State aid (SA) framework 2014-2020 regarding eight aid measures. They concern aid mitigating risks inherent to the agricultural sector, aid for prevention & restoration of damages to forests and forestry investments and investments in processing agricultural products into non-Annex I products in rural areas. The study examines the choices made by the Member States with regards to State aid clearance and the appropriateness of the rules set forward, their efficiency, effectiveness (in terms of balance of positive effects with the negative effect on competition and trade within the internal market) and coherence.

The study finds that for compensatory agricultural risk management measures, State aid responds to needs of the agricultural sector and addresses market failures specific to the different events. The effects of the support go beyond the direct effects on beneficiaries; contributing also to CAP objectives and public health policies. The effects on competition and trade are limited. Aids in the forestry sector and processing of agricultural products into non-Annex I are framed by the rural development regulation (RDR). The limited negative effects are outweighed by the positive effects of the aid in particular on rural development objectives.

The rules of the agricultural SA instruments are coherent with other concerned EU policies and overall with the RDR. For forestry measures, the integration into the agricultural block exemption leads to real simplification of SA clearance and reduced administrative burden. For processing of agricultural products into non-Annex I products coherence with RDR needs to be further developed.

L'objectif de cette étude d'évaluation est de procéder à une analyse des règles des aides d'État dans le secteur agricole 2014-2020 pour huit mesures d'aide. Elles concernent les aides destinées à atténuer les risques inhérents au secteur agricole, les aides à la prévention et à la restauration des dommages causés aux forêts, les investissements forestiers et les investissements dans la transformation de produits agricoles en produits hors annexe I en zones rurales. L'étude examine les choix effectués par les États membres en matière d'autorisation des aides d'État et l'adéquation des règles énoncées, leur efficacité, leur efficacité (en termes d'équilibre entre les effets positifs et les effets négatifs sur la concurrence et les échanges sur le marché intérieur) et leur cohérence.

L'étude conclut que, pour les mesures compensatoires de gestion des risques agricoles, les aides d'État répondent aux besoins du secteur agricole et corrigent les défaillances du marché spécifiques aux différents événements. Les effets du soutien vont au-delà des effets directs sur les bénéficiaires; contribuant également aux objectifs de la PAC et aux politiques de santé publique. Les effets sur la concurrence et les échanges sont limités. Les aides au secteur forestier et à la transformation des produits agricoles en produits hors annexe I sont encadrées par le règlement sur le développement rural (RDR). Les effets négatifs limités sont compensés par les effets positifs de l'aide, en particulier sur les objectifs de développement rural.

Les règles des instruments d'aide d'État à l'agriculture sont cohérentes avec les autres politiques de l'UE concernées et le RDR. En ce qui concerne les mesures forestières, l'intégration dans le cadre d'exemption pour l'agriculture a conduit à une simplification réelle du processus d'autorisation des aides d'État et à une réduction des charges administratives. Pour la transformation de produits agricoles en produits non-agricoles, la cohérence avec le RDR doit être davantage renforcée.

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LIST OF ABBREVIATIONS

ABER	Block exemption regulation for the agriculture and forestry sector and in rural areas 2014 to 2020 (Regulation (EU) No 702/2014)
AIR	Annual implementation report (RDP)
ASF	African swine fever
CAP	Common Agricultural Policy
CMO	Common Market Organization (Regulation (EU) No 1308/2013)
DG AGRI	Directorate-General for Agriculture and Rural Development
DG COM	Directorate-General for Competition
EAFRD	European Agricultural Fund for Rural Development
EC	European Commission
EU	European Union
EQ	Evaluation question
FADN	Farm Accountancy Data Network
FMD	Foot-and-Mouth Disease
GBER	General block exemption regulation (Regulation (EU) No 651/2014)
general de minimis	Commission Regulation (EU) No 1407/2013
agricultural GL	Guidelines for State aid in the agriculture and forestry sector and in rural areas 2014 to 2020 (2014/C 204/01)
GVA	Gross value added
JC	Judgement criteria
MA	Managing Authorities of RDP
MS	Member State(s)
OIE	World Organisation for Animal Health
RAG	Guidelines on regional State aid for 2014-2020 (OJ C 209, 23.7.2013)
RD	Rural development
RDP	Rural development programme
RDR	Rural development regulation (Regulation (EU) No 1305/2013)
SA	State aid
SAM	State aid modernisation
SANI	State aid notification interactive
SARI	State aid reporting interactive
SME(s)	Small and medium sized enterprise(s)
TFEU	Treaty on the Functioning of the European Union
UAA	Utilized agricultural area
8 CS MS	8 case study Member States; i.e. Member States for which an in-depth review has been undertaken (the Czech Republic, Estonia, France, Finland, Germany, Italy, Poland and Spain)

GLOSSARY

Term	Definition	Source
Ad hoc aid	Aid not granted on the basis of an aid scheme.	GL part I, 2.4 (35) 19.
Adverse climatic event which can be assimilated to a natural disaster	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: (a) the preceding three-year period; or (b) a three-year average based on the preceding five-year period, excluding the highest and the lowest entry.	ABER art.2 (16); GL part I, 2.4 (35) 34.
(Aid) measure	Different State aid measures defined by ABER or agricultural GL.	
Agricultural product	The products listed in Annex I to the TFEU, except fishery and aquaculture products covered by Council Regulation (EC) No 104/2000; cork products and products intended to substitute or imitate milk and milk products, as referred to in Art. 3(2) of Council Regulation (EEC) No 1898/87.	ABER art.2 (4)
Agricultural sector	All undertakings active in primary production, processing and marketing of agricultural products.	GL part I, 2.4 (35) 2.
Aid scheme	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.	GL part I, 2.4 (35) 4.
Catastrophic event	Unforeseen event of biotic of abiotic nature caused by human action that leads to important disturbances in forest structures, eventually causing important economic damage to the forestry sectors.	ABER, art.2 (19) and GL part I, 2.4 (35) 37.
Examination period	The period covering aid schemes which were either block-exempted under the ABER or authorised by the Commission in the period 1 July 2014 to 31 December 2016.	Terms of reference
Fallen stock	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.	ABER art.2 (15); GL part I, 2.4 (35) 27.
Incompatible State aid	Aid 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 MSs, be incompatible with the internal market.	EC, SWD(2014) 196 final
Individual aid	Ad hoc aid and awards of aid to individual beneficiaries on the basis of an aid scheme.	GL part I, 2.4 (35) 18.
Large enterprises	Undertakings not fulfilling the criteria laid down in Annex I to Regulation (EC) No 702/2014 (ABER).	GL part I, 2.4 (35) 14.
Large enterprises	Economic definition staff headcount > 250 persons and > €50 million of turnover.	Eurostat
Marketing of agricultural products	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	ABER art.2 (7) and GL part I, 2.4 (35) 12.

Term	Definition	Source
	a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose.	
Market failure	A situation where free markets fail to allocate resources efficiently. There are different types, in particular negative externalities and imperfect information (information asymmetries and coordination failures).	
Natural disaster	Earthquakes, avalanches, landslides and floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin.	ABER art.2 (9)
Other adverse climatic event	Unfavourable weather conditions which do not meet the conditions of point (35)34 of the agricultural Guidelines.	GL part I, 2.4 (35)35
Pure State aid measures	Measures which are not co-financed and thus financed exclusively from the MSs budget.	EC, SWD(2014) 196 final
RD measure	A set of operations contributing to one or more of the Union priorities for rural development.	Art. 2.1(c) RDR
RD-like measure	A measure which is designed largely in accordance with the conditions of a given RD measure.	
Reference period	The situation between 1 January 2007 and 30 June 2014.	Terms of reference
SMEs	Micro, small and medium-sized enterprises fulfilling the criteria laid down in Annex I of ABER, mainly in terms of (i) staff headcount, and (ii) turnover or balance sheet	ABER Annex I
State aid	Any aid granted by a MS 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 MS, be incompatible with the internal market.	Art. 107(1) TFEU
SA clearance	Authorisation from the Commision of aid trhough a State aid decision or acknowledgement from the Commission that aid is being exempted under the ABER by sending a notice of receipt to the MS	Terms of reference

INTRODUCTION

Objectives and scope

The objective of this "evaluation study of the instruments applicable to State aid (SA) in the agricultural and forestry sectors and in rural areas" is to carry out an assessment of the rules of this SA framework 2014-2020 in respect of eight aid measures. This framework is mainly composed of the Agricultural Block Exemption Regulation (EU) No 702/2014 (ABER) and of the Guidelines for State aid in the agricultural and forestry sectors and for rural areas (OJ C 204, 1.7.2014, p.1) (agricultural GL). The eight aid measures are the following:

- agricultural risk management measures, namely four compensatory measures related to (i) adverse climatic events, (ii) animal diseases and plant pests, (iii) fallen stock, and (iv) protected animals; and also payments for insurance premiums;
- forestry measures, namely (i) prevention and restoration of damage to forests and (ii) investment in forest technologies and in processing and marketing of forestry products in rural development programmes (RDP) or as similar measures outside a RDP;
- aid for investments concerning the processing of agricultural products into non-agricultural products (known as "non-Annex I products") in RDPs only.

The evaluation assesses the relevance, coherence, effectiveness, efficiency and EU value added of the State aid rules of this framework, with particular regard to the prevention of potential distorting effects on competition and trade within the internal market.

The geographical coverage is all EU Member States (MS), while the study focused in particular on 8 MS (the Czech Republic, Estonia, France, Finland, Germany, Italy, Poland and Spain) to feed the answers to the Evaluation Questions (EQ). The examination period covers State aid cases block-exempted or notified between 1 July 2014 and the end of 2016. The situation in the previous programming period (1 January 2007 to 30 June 2014) is taken as a reference period.

The evaluation was carried out between 18 December 2017 and November 2018.

Structure of the report

The report comprises two parts, a descriptive part and an evaluative part.

The descriptive part presents a general description of State aid and the agricultural SA framework 2014–2020 (section 1). Section 2 provides an overview of the agricultural and forestry sector in the European Union (EU). A detailed presentation of selected aid measures and their rules is provided in Section 3, as well as an overview of the use of the agricultural SA instruments and measures by MS at the level of the EU-28 and in more detail (eligible costs, budget and actual spending, beneficiaries, aid instruments and categories) in selected MS.

The evaluative part presents the overall methodology for this evaluation, the information sources and tools as well as the limitations (Section 4). It also presents the intervention logic of the agricultural SA framework 2014-2020. Sections 5 to 9 present the answers to the 11 Evaluation Questions (EQs), which are structured in five Themes. Theme 1 concerns aid mitigating risks inherent to the agricultural sector (EQ1-3), Theme 2 covers aid for the forestry measures (EQ 4-6) and Theme 3 concerns investments in non-Annex I activities in rural areas (EQ7-9). Theme 4 and 5 are crosscutting; they concern efficiency and EU value added. For each EQ we present the rationale and approach to answering the question, the summary answer and the analysis leading to the summary answer. The Conclusions and Recommendations are provided respectively in Sections 10 and 11.

The report is accompanied by several Annexes, available in a separate document.

DESCRIPTIVE PART

1. THE AGRICULTURAL STATE AID FRAMEWORK

This section provides a description of the regulatory framework guiding agricultural State aid. More precisely, Section 1.1 describes the State aid concept and the horizontal SA instruments. Section 1.2 introduces the specificity of State aid within the Common Agricultural Policy (CAP) and the agricultural SA framework for the period 2014-2020. Section 1.3 presents the State aid modernisation initiative and the changes it introduced leading to the current agricultural SA framework.

1.1 State aid concept and the regulatory framework

1.1.1 State aid concept

Art. 107(1) of the Treaty on the Functioning of the European Union (TFEU) stipulates that: "any aid granted by a MS 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 MS, be incompatible with the internal market."

However, the Treaty does not define exactly what State aid is. The European Court of Justice has retained an objective definition of the notion of State aid[1]. According to the Court, in order to appreciate whether there is State aid, one must determine, among other things explained below, whether the beneficiary undertaking receives an economic advantage which it would not have obtained under market conditions. To be considered as State aid, a measure needs to have the following features:

- **Use of State resources.** There has been an intervention by the State (national public authorities) or through State resources which can take a variety of forms (e.g. grants, interest and tax reliefs, guarantees, government holdings of all or part of a company, or providing goods and services on preferential terms, etc.).
- **Selective advantage.** The intervention gives the recipient undertaking an advantage on a selective basis, for example in specific undertakings or industry sectors, or undertakings located in specific regions.
- The intervention is likely to **distort competition**. This can be within the MS or between EU MS.
- The intervention is likely to **affect trade between MS**. Trade is affected by aid which dries out the market, places entry barriers or strengthens a company's position relative to its competitors in the internal market. The impact on trade does not have to be substantial.

Therefore, considered as State aid are all forms of direct financial benefits, such as capital contributions, the provision of commercial and logistical assistance, or indirect advantages that alleviate the normal expenses of undertakings (tax or social exemption, guarantees, conversion of debts into capital). Subsidies granted to individuals or general measures open to all enterprises are not covered by this prohibition and do not constitute State aid (examples include general taxation measures or employment legislation).

1.1.2 Provisions of the Treaty for State aid

The EU's policy in respect of State aid seeks to ensure free competition, efficient allocation of resources and a well-functioning internal market, while respecting the international commitments of the EU[2]. Despite the general prohibition of State aid, in some circumstances government intervention is necessary to remedy market failures and achieve other legitimate policy objectives such as an equitable economy. Therefore the Treaty leaves room for a number of policy objectives for which State aid can be considered compatible with the internal market (Art. 107(2) TFEU), for example to compensate for

[1] Moreover, a Commission Note on the notion of State aid as referred to in Art. 107(1) of the TFEU (2016/C 262/01) has been published by the EC in the context of the State aid modernisation initiative.

[2] https://ec.europa.eu/agriculture/stateaid_en.

damage caused by natural disasters. The Commission may also authorise aid on a discretionary basis (Art. 107(3) TFEU) if it finds that a given aid measure is compatible with the internal market (i.e. that it does not affect trading conditions to an extent contrary to the common interest).

Art. 108 TFEU sets out the main procedural principles concerning measures to be taken to ensure MSs' compliance with the substantive State aid rules. If a MS wishes to grant State aid or plans to introduce a State aid scheme, it has to inform the Commission of its intention in advance ("notification") and await authorisation by way of a Commission Decision before putting the proposed measure into effect ("standstill obligation"). The Commission has to adopt a Decision within two months of the moment when notification is complete, either concluding that it is not aid, or authorising the aid as compatible with the Treaty, or opening an investigation procedure.

To assess whether a proposed aid measure can be considered compatible with the internal market under Art. 107(3) TFEU, the Commission generally analyses whether the design of the measure ensures that the positive impact of the aid on achievement of an objective of common interest exceeds its potential negative effects on trade and competition. The European Commission (EC) has defined a set of common assessment principles for State aid (see Box 1) which the Commission Services use to evaluate the compatibility of State aid with the Treaty provisions.

Box 1: Common assessment principles for State aid[3]

The Commission considers an aid measure compatible with the Treaty **only if it satisfies each of the following criteria**:

- contribution to a well-defined **objective of common interest**: a State aid measure must aim at an objective of common interest in accordance with Art. 107(3) TFEU;
- 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**;
- appropriateness of the aid measure: the proposed aid measure must be an **appropriate policy instrument** to address the objective of common interest in the sense that it is more effective and less distortionary than other instruments;
- 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 which it would carry out in a restricted or different manner;
- **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. Aid can be **cumulated** in line with the specifications detailed in the relevant Guidelines;
- **avoidance of major undue negative effects** on competition and trade between MS: the negative effects of aid must be sufficiently limited, so that the overall balance of the measure is positive;
- **transparency** of aid: MS, the Commission, economic operators, and the public must have easy access to all relevant acts and to pertinent information about the aid granted thereunder.

1.1.3 Horizontal State aid instruments

Based on Art. 107(2)(a)–107(3)(d) TFEU, a set of **horizontal rules** which are applicable across all industries clarifies the Commission's position on particular categories of aid. These rules include (1) different Guidelines on State aid, (2) the General Block Exemption Regulation (GBER) and (3) the general *de minimis*.

(1) The Commission publishes different EU Guidelines for notification of State aid. They apply to all sectors unless overruled by specific provisions of sector-specific legislation[4]. Among those of relevance to agriculture are the **Guidelines on regional State aid for 2014-2020 (RAG)** (2013/C 209/01). Indeed, aid to promote the economic development of certain disadvantaged areas within the EU, known as regional aid, may be considered compatible with the internal market on the basis of Arts. 107(3)(a) & (c) TFEU. The RAG is applicable to all sectors of economic activity, apart from fisheries and aquaculture and the agricultural[5] and transport sectors which are subject to special rules laid down by specific

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[3] Source: Guidelines on regional State aid for 2014-2020 (2013/C 209/01); European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 (2014/C 204/01).

[4] Other Community guidelines on State aid are notably for rescuing and restructuring firms in difficulty, for research and development and innovation, for environmental protection and energy 2014-2020.

[5] State aid for the primary production, processing and marketing of agricultural products resulting in agricultural products listed in Annex I to the Treaty and forestry is subject to the agricultural GL.

legal instruments. However, the RAG will apply for processing and marketing of agricultural products into non-agricultural products.

(2) Commission Regulation (EU) No 651/2014[6], known as the **General Block Exemption Regulation (GBER)**, defines the categories of aid which can be exempted from the mandatory notification requirement of Art. 108(3) of the Treaty, if the provisions of Chapter I and the specific provisions for the relevant category of aid laid down in Chapter III of the regulation are fulfilled (Art. 3 GBER). They include, among other things, (i) regional aid; (ii) aid to small and medium-sized enterprises (SMEs) in the form of investment aid, operating aid and SMEs' access to finance; […] and (iii) aid to make good the damage caused by certain natural disasters (Art. 1). The general provisions refer to notification thresholds, transparency of aid, the incentive effect, the aid intensity and eligible costs, and cumulation.

(3) Finally, certain aid measures not meeting all the criteria of Art. 107(1) TFEU are exempted from the notification procedure provided for in Art. 108(3) TFEU, only if the aid granted to the same undertaking over a given period of time does not exceed a certain fixed amount. These aid measures are known as the **general *de minimis***; defined by Commission Regulation (EU) No 1407/2013[7]. It applies to "aid granted to undertakings in all sectors, with the exception of aid granted to undertakings active in (i) the fishery and aquaculture sector; (ii) the primary production of agricultural products […]" (Art. 1) (including products processed and marketed by primary producers). The latter are subject to specific rules defined by the agricultural *de minimis* Regulation (see section 1.2.3.1).

1.2 The agricultural State aid framework

1.2.1 The Common Agricultural Policy

The Common Agricultural Policy (CAP) is a common EU policy for all MS. Being the first common European policy (since 1962), it has undergone important reforms over time. It shifted progressively from a price-stabilising policy to direct income support in addition to supporting the production of public goods, notably through rural development (RD) and territorial and social cohesion[8]. Since its start, the CAP is managed and funded at the European level with resources from the EU budget.

The current CAP is based on two pillars:

- The first includes **income support and market measures**. Income support takes the form of direct payments: they ensure income stability and remunerate farmers for environmentally-friendly farming and delivering public goods (externalities for which they are not paid by the markets).
- The second pillar concerns the EU's **RD policy**. It is designed to support rural areas of the Union and meet the wide range of economic, environmental and societal challenges. A higher degree of flexibility (in comparison with the first pillar) enables regional, national and local authorities to formulate their individual seven-year rural development programmes (RDPs) based on a European 'menu of measures'. Contrary to the first pillar, which is entirely financed by the EU, the second pillar programmes are co-financed by EU funds and regional, national or local funds.

The CAP has three long-term objectives (defined in the 2013 CAP reform), namely (i) viable food production, (ii) sustainable management of natural resources and climate action, and (iii) balanced territorial development. The EU provides important financial support to the agricultural sector and to a lesser extent to the forestry sectors and to rural areas within the context of the CAP. For the period 2014-2020 the CAP has a total budgetary allocation in current prices of more than €400 billion, of which €99.6 billion is allocated to the RD policy[9]. The latter is complemented by €61 billion of public funding from the MS (national/regional).

[6] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Art. 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).
[7] Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Art. 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid.
[8] European Commission (2007), "Preparing for the 'Health Check' of the CAP reform", Communication from the Commission to the Council and the European Parliament, COM(2007) 722, Brussels, 20 November.
[9] European Parliament Fact Sheet on the CAP – Financing the CAP (2017).

Box 2 presents in more detail the two main regulations of the CAP pillars relevant for this evaluation study[10].

[10] The first pillar is also covered by Regulation (EC) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the CAP. Direct aids are fully funded by the EU and thus not covered by the State aid rules.

Box 2: Relevant CAP Regulations

Regulation (EU) No 1308/2013 establishing a **common organisation of the markets (CMO)** in agricultural products, provides a safety net to agricultural markets through the use of market support tools (e.g. public intervention and private storage), exceptional measures and aid to specific sectors. The regulation notably lays down rules on trade in agricultural products and specific rules on competition. Concerning market intervention, it lays down rules regarding public intervention, where products are purchased and stored by EU governments or their agencies until their disposal, and aid granted for the storage of products by private sector organisations.

The EC can take emergency measures against market disturbance caused by significant price fluctuations or when there are threats thereof. It may also take action to deal with the market impact of measures taken to combat the spread of animal diseases or serious market disturbances caused by a loss of consumer confidence as a result of public, animal or plant health and disease risks. In case of major market disruptions, the reserve for crises provides additional support to finance these measures.

Regulation (EU) No 1305/2013 concerns support for rural development (RD) by the European Agricultural Fund for Rural Development (EAFRD), hereinafter the **Rural Development Regulation (RDR).** It sets forth the main provisions for RD programming, monitoring, evaluation and content of the rural development programmes (RDP) while providing a description of the measures (Delegated Regulation (EU) No 807/2014 and Implementing Regulation (EU) No 808/2014[11]).

RDPs are drawn up by MS/regions, setting out strategic approaches and actions to meet the needs of the specific geographical area they cover, addressing common EU priorities. Three of them are of specific relevance for the evaluation study, namely promoting food chain organisation and risk management in the agricultural sector (P3), restoring, preserving and enhancing ecosystems related to agriculture and forestry (P4) and promoting resource efficiency and supporting a shift towards a low-carbon and climate resilient economy in the agriculture food and forestry sector (P5). For the 2014-2020 programming period, there are 118 RDPs in EU-28. Among these, nine are national programmes with one or two cross-cutting objectives (e.g. national rural network, risk management).

1.2.2 State aid and the CAP

In the agricultural sector, the general State aid rules mentioned in Art. 107, 108 and 109 of the TFEU are not automatically applicable**.** The European Parliament and Council have decided, on the basis of TFEU Art. 42, that State aid rules shall not apply to support financed by the EU under the Common Agricultural Policy (CAP) in relation to production of and trade in agricultural products listed in Annex I of the TFEU.

However:

- Agricultural products listed in Annex I (covered by Art. 42 TFEU) financed by national resources only (so-called "pure State aid") require the application of the State aid rules.
- For those measures of the RDR which fall outside the scope of Art. 42 TFEU, namely forestry measures and non-Annex I products in rural areas, SA rules apply.

Box 3 presents the State aid provisions in the relevant CAP regulations.

Box 3: State aid provisions in the two main CAP regulations

CMO Regulation and State aid: Art. 211(1) of the CMO Regulation provides that State aid rules apply to aid for production of and trade in agricultural products, subject to specific derogations. However, Art. 211(2) provides that State aid rules do not apply to payments made by MS for measures provided for in that Regulation which are partly or wholly financed by the Union and for measures included in Art. 213 to 218 of that Regulation (which relate to authorisation of national payments for various minor purposes).

RD Regulation and State aid: the general principle of the applicability of State aid rules is set out in Art. 81(1) of the RDR. Articles 81(2) and 82 of that Regulation stipulate that the State aid rules do not apply to payments made by MS pursuant to, and in conformity with the RDR, or to additional national financing **provided it relates to Annex I products** (primary agricultural products) within the scope of Art. 42 TFEU and forms part of the RDP.

Since SA rules apply, specific instruments applicable to State aid in the agricultural and forestry sectors and in rural areas exist. For the period 2014-2020 the instruments are the following:

- **Commission Regulation (EU) No 1408/2013[12]**, hereinafter "the agricultural *de minimis* Regulation". This Regulation sets out a ceiling below which aid measures are

[11] Commission Delegated Regulation (EU) No 807/2014 of 11 March 2014 supplementing Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and introducing transitional provisions; and Commission Implementing Regulation (EU) No 808/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

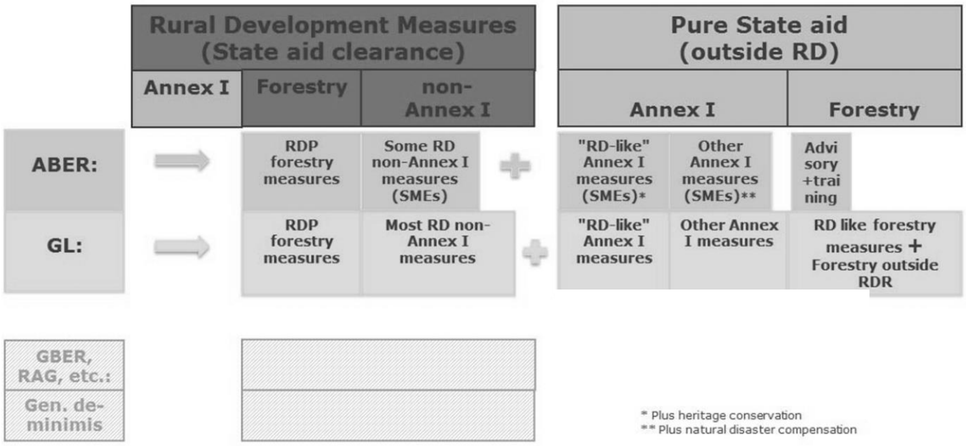
[12] Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector.

not State aid and simplifies the treatment of aid measures that are too small to have an impact on competition and on trade in the internal market.

- **Commission Regulation (EU) No 702/2014**[13], known as the Agricultural Block Exemption Regulation (ABER). This makes it possible to exempt aid limited to SMEs active in the agricultural sector on the basis of clear compatibility criteria set out in that Regulation. It also covers certain aid in the forestry sector and aid in favour of SMEs in rural areas which engage in non-agricultural activities.
- **EU Guidelines for State aid in agriculture and forestry sectors and in rural areas 2014 to 2020 (hereinafter "agricultural GL")**[14]. These agricultural GL set out the general criteria that will be used by the Commission when assessing the notifications from the MS.

Based on the above, Figure 1 summarizes the treatment of State aid in agriculture and forestry and rural areas, based on the agricultural SA instruments (ABER, GL), *viz.*: (i) RD measures for which State aid rules automatically apply related to the forestry sector and to non-Annex I products; (ii) pure State aid related to Annex I products; *and* (iii) pure State aid related to the forestry sector.

Figure 1: Scope of the agricultural State aid framework



Source: Impact assessment SWD (2014) 196 final

If a MS intends to finance exclusively from national funds (that is, pure State aid without any EAFRD co-financing) a measure which is designed largely in accordance with the conditions of a given RD measure ('RD-like measure'), State aid rules fully apply, regardless of whether the measure falls within or outside the scope of Art. 42 TFEU (recital 18, agricultural GL).

1.2.3 The agricultural State aid instruments

1.2.3.1 Agricultural de minimis aid

Agricultural *de minimis* aid (Regulation (EU) No 1408/2013) refers to aid granted to a single undertaking active in the primary production of agricultural products over a given period of time that does not exceed a certain fixed amount. It is deemed not to meet all the criteria laid down in Art. 107(1) of the Treaty and is therefore not subject to the notification procedure. The current maximum amount of aid to a single undertaking over a period of three fiscal years is €15 000 with a national cap of 1% of agricultural annual output.

1.2.3.2 The Agricultural Block Exemption Regulation

ABER (Reguatlion (EU) No 702/2014) permits MS to provide certain categories of State aid without notifying the Commission and seeking its prior approval. In total 36 aid measures are foreseen by ABER, grouped in the following categories: (i) aid in favour of SMEs active

[13] 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 TFEU.

[14] EU Guidelines for SA in the agricultural and forestry sectors and in rural areas 2014 to 2020; OJ C 204, 1.7.2014, p. 1–97.

in primary agricultural production, the processing of agricultural products and the marketing of agricultural products; (ii) aid for investments in favour of conservation of cultural and natural heritage located on agricultural holdings; (iii) aid to make good the damage caused by natural disasters in the agricultural sector; (iv) aid for research and development in the agricultural and forestry sectors; (v) aid in favour of forestry; and (vi) aid in favour of SMEs in rural areas co-financed by the EAFRD or granted as additional national financing to such co-financed measures.

Thus, in addition to primary agricultural products, the Regulation mainly includes RD measures (co-financed by the EAFRD or granted as additional national financing for such co-financed measures) that fall outside the scope of Art. 42 TFEU including forestry (shown in the left-hand panel of Figure 1 above). It also applies to purely national financing of a few aid measures for the forestry sector, such as knowledge and information measures, research and advisory services.

To be eligible for exemption from the State aid notification requirement, all agricultural State aid schemes must fulfil the common principles and other requirements set out in ABER chapter 1 as well as further specific requirements set out in the relevant articles. The ABER common provisions cover the following:

- Notification thresholds for the gross grant equivalent of any individual aid (Art. 4).
- Transparency requirements, meaning that only aid in respect of which it is possible to calculate precisely the gross grant equivalent *ex ante* without the need to undertake a risk assessment ('transparent aid') may be covered by ABER (Art. 5).
- The requirement that the aid has an incentive effect which is met where a beneficiary has submitted a written application for aid before work on the project or activity has started (Art. 6). By derogation, a number of State aid measures are deemed automatically to have an incentive effect[15].
- The requirement that the aid be proportionate and limited to the amount necessary to achieve its objective. This is usually ensured by setting maximum aid intensities as a proportion of eligible costs. Where the eligible costs cannot be identified or in order to provide simpler instruments for small amounts, maximum aid amounts apply (Art. 7).
- Conditions for cumulating different categories of aid (Art. 8). The general rule is that aid measures may be cumulated as long as they concern different eligible costs. Where different sources of aid are related to the same eligible costs, cumulation should be allowed up to the maximum aid intensity or aid amount applicable to that aid under the ABER.
- MS must publish aid schemes or individual aid on a public website (Art. 9).

Risk and crisis management aid and aid for the livestock sector is limited under ABER to SMEs active in primary agricultural production. However, aid to make good damage caused by natural disasters (Art. 30)[16] is available to undertakings in the whole sector and can be granted to both SMEs and large enterprises.

1.2.3.3 Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020

For State aid which is neither exempted by virtue of Art. 42 TFEU nor covered by ABER, MS must notify their proposed aid measures to the Commission and await Commission approval before the aid scheme can be launched. In addition to the general horizontal rules applying to State aid, the Commission relies on the agricultural GL in making its assessment of the compatibility of these aid measures with the internal market.

The agricultural GL set out the common principles and specific conditions and criteria under which aid for the agricultural and forestry sectors and for rural areas will be considered compatible with the internal market and establishes the criteria for identifying the measures that fulfil the conditions of Art. 107(3) TFEU. In total, 63 aid measures are organized in the following aid categories:

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[15] These include measures related to adverse climatic events, animal diseases and plant pests, fallen stock, protected animals and damage to forests.

[16] Falling outside the evaluation scope.

- aid for the **agricultural sector**, financed exclusively from national funds, which consist of (a) RD measures that are not included in a RDP and (b) measures other than those referred to in "(a)" which fall outside the scope of the RDR, such as certain risk and crisis management measures, aid for the livestock sector and certain promotion measures;
- aid for the **forestry sector**, which can be (a) granted as part of a RDP or as additional national financing for such RD measures or (b) financed exclusively from national resources, in the form of a RD-like forestry measure foreseen in the RDR and granted in accordance with the conditions of the agricultural GL, other aid in the forestry sector with ecological, protective and recreational objectives, and aid in the forestry sector aligned with agricultural aid measures; *and*
- aid for undertakings active in **rural areas** which can be granted as (a) an aid measure included in a RDP, co-financed by the EAFRD pursuant to and in conformity with the RDR, where the notifiable State aid measure is identical with the measure in the RDP or (b) additional national financing related to a measure in the framework of a RDP.

The agricultural GL start with an important section on the fulfilment of the common assessment principles for State aid (38)–(132) (see Box 1). As regards aid granted pursuant to Art. 107(2)(b) TFEU, the agricultural GL (Part II, S.1.2.1.1) set 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 Treaty article.

The agricultural GL apply in principle to aid to SMEs and to large enterprises. According to recital (25) "[…] large enterprises in the agricultural and forestry sectors and in rural areas are more likely to be significant players on the market and in specific cases, […] that aid granted to large enterprises may particularly distort competition and trade in the internal market." For this reason, aid to large enterprises in the agricultural and forestry sectors and in rural areas and to other large enterprises, is "[…] subject to the common assessment principles laid down in Chapter 3 of Part I of the agricultural GL." All types of beneficiaries that do not fulfil the conditions of SME stated in Annex I of ABER fall into the category of large enterprises (agricultural GL §(35)14).

1.3 The State aid modernisation initiative

In 2012 the Commission undertook an initiative to reform EU State aid policies and rules, building on earlier reforms during the period 2005-2009 set out in the State aid Action Plan[17]. It included a revision and harmonisation of all SA instruments, including the agricultural SA instruments (see Box 4).

Box 4: The State aid modernisation initiative

The State aid modernisation (SAM) initiative is focused on three closely-linked objectives: (i) fostering growth in a strengthened, dynamic and competitive internal market; (ii) focusing enforcement on cases with the biggest impact on the internal market; and (ii) streamlined rules and faster decisions.

The Commission adopted new rules in line with these principles and launched a renewed partnership with the MS to implement the reform programme. One important element of the follow-up was the identification of common principles to assess the compatibility of aid with the internal market. Another was the revision of the various block exemption regulations as well as the various guidelines and frameworks to make them consistent with these common principles. Other initiatives included a revision of the procedural regulation, new transparency requirements for State aid awards, and a requirement for MS to evaluate their large aid schemes. In addition, a High-Level Forum on State aid modernisation was set up to promote regular discussions between the Commission and the MS[18].

The revisions of the agricultural SA framework introduced in 2014 were announced for three main reasons:

[17] Details of the State aid Action Plan and the results of that earlier reform can be found on the DG Competition web page http://ec.europa.eu/competition/state_aid/reform/archive.html.

[18] For full details of the revised regulations and rules, see the DG Competition web page on the State aid Modernisation initiative http://ec.europa.eu/competition/state_aid/modernisation/index_en.html.

- First, the agricultural State aid rules were no longer in line with the horizontal objectives for State aid introduced by the SAM initiative; for example, the previous agricultural State aid rules did not reflect the monitoring requirements and common assessment principles introduced by the SAM.

- Second, the previous agricultural State aid rules were no longer consistent with the new RDR. An overview of the coherence between the previous agricultural State aid measures, on the one hand, and the RDR and horizontal State aid rules, on the other, was attached as Annex III in the Commission's Impact Assessment of proposed *European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020* (Commission SWD (2014) 196).
- Third, feedback had been requested from stakeholders and a number of their suggestions for change were considered in the impact assessments for the revised sector-specific SA framework. Procedures, rules and forms were considered to be complex and administrative simplification was requested.

As a result, the three agricultural SA instruments have been revised. Revisions were also made to the GBER and the general *de minimis* regulations that affect processing and marketing of agricultural products.

2. AGRICULTURAL AND FORESTRY SECTORS IN THE EU

In the following sections we present briefly the state of the agricultural and forestry sectors in the EU. Section 2.3 also introduces non-Annex I products.

2.1 The European agricultural sector

With its mix of oceanic, continental and Mediterranean climates, Europe is a temperate territory that offers a diverse range of natural environments well-adapted to agriculture. The utilized agricultural area (UAA) of the EU-28 was around 178.8 million hectares in 2016, or 40.9% of the total land area (437 million ha). Arable land, permanent grassland and permanent crops account respectively for 59%, 34% and 7% of the UAA[19].

2.1.1 Socio-economic aspects of the agricultural sector

Agricultural output

In 2016 the total output of the agricultural industry (comprising the output values of crops and animals, agricultural services and the goods and services produced from inseparable non-agricultural secondary activities) in the EU-28 was an estimated €405 billion. Crop output represented 51.9% of the total output value of the agricultural industry and animal output accounted for 39.2%. The agricultural activities and inseparable secondary activities (generally the processing of agricultural products), provided the residual shares of 5% and 3.9% respectively. France, Germany, Italy and Spain are the four largest agricultural producers in the EU.

The gross value added (GVA) of the EU-28's agricultural industry in 2016 was around €165.7 billion, while subsidies on production amounted to €52.6 billion. In 2016 the primary sector (agriculture, forestry and fishery) accounted for 1.5% of the total EU-28's GVA. The agricultural products accounting for the highest share of output value in the EU-28's agricultural industry in 2016 were vegetables and horticultural plants (13.2%), milk (12.2%) and cereals (10.7%), while pig and cattle output also accounted for relatively large shares: 8.5% and 8.2% respectively[20].

Agricultural production

Cereals production is of highest importance for the EU. More than half of arable land was given over to cereals in 2015, which accounted for one-third of the total UAA of the EU-28. The harvest production of cereals (including rice) in the EU-28 was around 301 million tonnes in 2016, representing about 11.6% of global cereal production. Compared to 2015, EU-28 cereal production decreased by 4.4% in 2016, mainly due to unfavourable climatic conditions. Common wheat and spelt, grain maize, corn-cob-mix and barley accounted for 85.4% of the cereals produced in the EU-28 in 2016.

The vegetable sector is a key sector in EU agriculture, accounting for 13.7% of EU agricultural output. In 2016 the total production of vegetables in the EU was 63.9 million tonnes. Spain (24.1%) and Italy (17.4%) were the most important producers. The fruit sector represents 6.8% of EU agricultural output. In 2016 total fruit production in the EU was 36.4 million tonnes. Spain (29.1%), Italy (23.9%) and Poland (12.2%) were the most important producers. The EU is the world's leading producer of wine, with almost half of the global vine-growing area and approximately 62.3% of production by volume. The total production of grapes was 23.7 million tonnes in 2016. The EU is also the largest producer of olive oil in the world, accounting for almost three-quarters of global production.

The EU-28's livestock herd was 131.5 million livestock units in 2016. European livestock production is strongly represented by pigs and bovines, each accounting for one-third of total production value in 2017 while poultry production accounted for about 21%. The main EU producers are France (15%), Germany (14%), Spain (14%), United Kingdom (11%) and Italy (10%).

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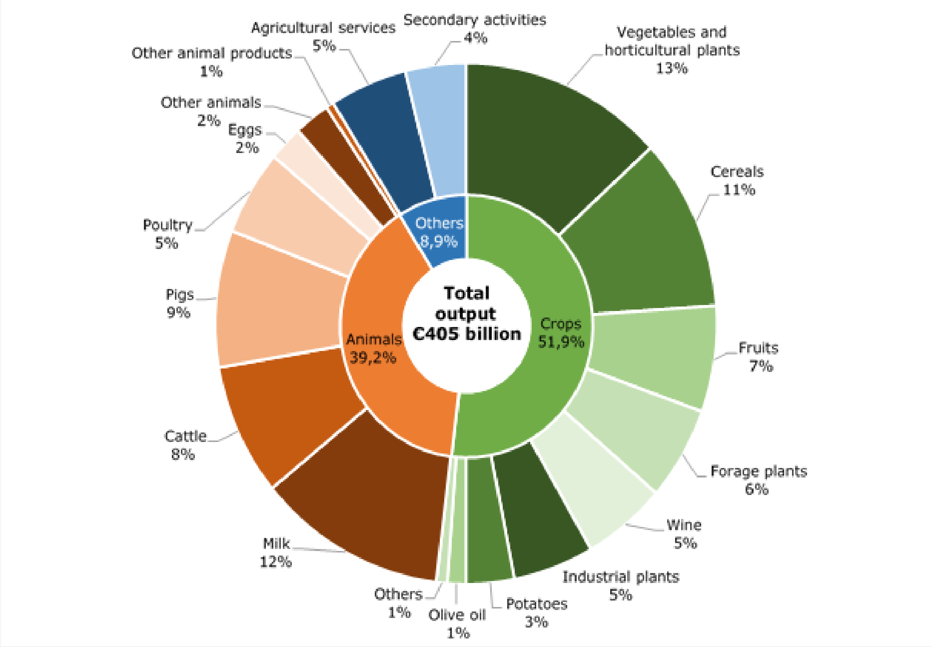
19 Eurostat database (http://ec.europa.eu/eurostat/data/database); Eurostat (2017), Agriculture, forestry and fishery statistics, edition 2017; Eurostat, Statistical Factsheet, European Union, May 2018.

20 Eurostat (2017), Agriculture, forestry and fishery statistics, 2017 edition.

Figure 2: Output of the agricultural industry, EU-28, 2016



Source: EUROSTAT (2017) Agriculture, forestry and fishery statistics, 2017 edition.

Agricultural holdings

In 2016 there were 10 467 760 agricultural holdings within the EU-28 (Eurostat). An analysis by economic size shows that of these, 82.6% were small (standard output[21] < €25 000), 10.4% were medium-sized and only 7% were of larger size[22] with a standard output of more than €100 000. The average size in terms of area was around 17 ha per farm. However, these figures show high variability between farms and between MS. Indeed 65.6% of agricultural holdings have less than 5 ha and account for 6.1% of the EU's total UAA while 3.3% of farms have more than 100 ha and represent 52.7% of total UAA. By far the largest average size of agricultural holdings in any of the EU MS in 2016 was the 130 ha recorded for the Czech Republic, with the second highest average recorded in the United Kingdom at 90 ha. Five MS reported average sizes below 10 ha in 2016, with the lowest averages in Malta (1 ha), Cyprus (3 ha) and Romania (4 ha).

Large enterprises active in the primary agricultural production in the EU

According to the EU definition (ABER Annex I), large enterprises are companies with more than 250 employees and have either an annual turnover of more than €50 million or a total balance sheet of more than €46 million.

Statistics on large enterprises in the agricultural sector are not available at European level. The Eurostat database on the structure of enterprises (structured business statistics) does not cover agriculture, forestry and fisheries. However, statistics are provided by economic size class (farm structure survey (FSS), FADN, and Eurostat) but the upper limit used is a standard output of €500 000, which is still far from the turnover threshold of €50 million. Based on this, only 1.1% of the 2016 agricultural holdings have a standard output higher than €500 000 with significant variations between MS. Hence the number of large enterprises falling within the European definition is very limited.

For a selected number of MS national statistics have been consulted to verify the number of large enterprises active in primary agricultural production. In France, eight large agricultural enterprises were included in the top 100 companies in 2017 (VERIF database)[23]. Finland did not have any agricultural enterprises included in the very largest companies (Swedma)[24]. In

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[21] The standard output of an agricultural product (crop or livestock) is the average monetary value of the agricultural output at farm-gate price, in euro per hectare or per head of livestock (Eurostat statistics explained).

[22] See next point, the concept of large agricultural holdings with a standard output (proxy of turnover) of €100 000 differs from that of large enterprises (>250 employees, > €50 million of turnover).

[23] https://www.verif.com/Hit-parade/01-CA/03-Par-activite/01-Culture-et-production-animale-chasse-et-services-annexes.

[24] http://www.largestcompanies.com/toplists/nordic/largest-companies-by-turnover/industry/crop-and-animal-production-hunting-and-related-service-activities.

Estonia one large agricultural enterprise was observed in 2014, but disappeared afterwards; since then no large agricultural enterprises have been registered (Eesti Statistika)[25]. In Germany there were less than 20 large enterprises in 2016 (Bisnode-Datenbank).

Agricultural workforce and labour input

In 2017 around 9.5 million people worked in agriculture in the EU-28, accounting for 4.2% of total employment. Almost three-quarters (71.68%) of the agricultural workforce in the EU-28 was concentrated in seven MS: Romania, Poland, Italy, France, Spain, Bulgaria and Germany.

The vast majority of the EU's farms are relatively small family-run holdings. Often these holdings draw on family members to provide labour (in addition to the farm holder). Some farmers are occupied on a part-time basis, so while there are a large number of people providing labour within agriculture, many of them will have their main employment elsewhere. The volume of labour input provided in the EU-28 in terms of full-time labour equivalent was estimated at 9.5 million annual work units. Family labour represented 76.5% of the total (44.1% holders and 32.4% family members), 15.4% were regular non-family workers and 8.1% non-regular non-family workers.

2.1.2 Risks inherent to agriculture[26]

Farmers are exposed to different types of risk that influence their agricultural activity. Three types of risk can be distinguished: market risks (price volatility), agricultural production risks (yields) and farm income risks (income variability which is among other things affected by the two previous types of risk). Production risks relate to the possibility that yields or outputs are lower than expected. This can be the result of extreme climatic conditions - such as drought or floods – since climate is a key factor determining crop yields. Less systemic events such as pests, diseases or local weather phenomena such as hail, frost or excessive rainfall can also have a significant impact on agricultural output.

Climatic risks

In several European regions hail events causing substantial damage to crops are among the costliest weather-related extreme events. Therefore hail risk management tools were one of the first implemented in insurance contracts with or without subsidies[27].

Drought has also been a recurrent feature of the European climate. From 2006-2010, on average 15% of the EU territory was affected by meteorological drought each year. There is a clear indication of deteriorating agro-climatic conditions in central and southern Europe, with increased drought stress and a shortening of the active growing season. Available studies project large increases in the frequency, duration and severity of meteorological and hydrological droughts[28] in most of Europe over the 21st century, except for northern European regions.

Another agricultural risk relates to temperature changes across the EU, which includes different climates and temperatures. The average annual European temperature for the last decade (2007-2016) is 1.6°C higher than the pre-industrial level, which makes it the warmest ever measured[29]. These higher temperatures and increasing drought risks are expected to reduce livestock production through negative impacts on both grassland productivity and animal health.

Regarding precipitation, studies show a general increase over time in north-eastern and north western EU regions, particularly in winter, and a decrease in some southern regions in summer[30].

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25 http://andmebaas.stat.ee/Index.aspx?DataSetCode=ER025.
26 DG AGRI (2017), Study on risk management in EU agriculture, final report, 2017.
27 DG AGRI (2017), Study on risk management in EU agriculture, October 2017, page 141.; European Environment Agency (EEA). Hail. Indicator Assessment. Data and maps.
28 A meteorological drought is defined in terms of precipitation deficiency, which may be exacerbated by high temperature associated with high evapotranspiration. A persistent meteorological drought can propagate to a soil moisture (agricultural) drought affecting plant and crop growth, which may deepen into a hydrological drought affecting watercourses, water resources and natural ecosystems. https://www.eea.europa.eu/data-and-maps/indicators/river-flow-drought-2/assessment.
29 https://www.eea.europa.eu/data-and-maps/indicators/global-and-european-temperature-4/assessment.
30 EEA. 2017c. European Environment Agency. Heavy precipitation. Indicator assessment. Data and maps.

Climate change effects may be ambiguous. In southern regions suitable crop areas may decrease because of water shortages and extreme temperatures. One of the direct impacts of warming in southern regions may be on grassland productivity and animal health, which will potentially reduce livestock production. Conversely, a positive effect from atmospheric CO_2 increase leads to higher vegetable production, and a positive northward expansion of cropping areas due to climatic warming. As climate change produces unpredictable effects, crop yield variability may be higher in some European regions, particularly in southern regions, increasing production and income uncertainty for farmers and thus the need for insurance.

Animal diseases

Animal diseases can be endemic, zoonotic or epidemic (epizootic) and result in direct or consequential losses. The two main routes of introduction of an epizootic livestock disease in the EU are human activity (e.g. transport of infectious animals or their products) and wildlife. The number of outbreaks can vary considerably between years. The size of an outbreak as well as its impact (in terms of loss) differ greatly between MS since the main factor influencing the size of an outbreak is the intensity of livestock production in the area.

Ruminants. Among the main diseases for ruminants are bluetongue, foot-and-mouth disease (FMD), bovine tuberculosis and bovine herpesvirus-1 (BHV-1).

- Bluetongue is a viral disease of wild and domestic ruminants (mainly sheep) and is recognised by the World Organisation for Animal Health (OIE). Between 2006 and 2008 north-west Europe experienced annual outbreaks of bluetongue virus, causing significant impact on livestock industries. During the second half of 2015 an outbreak was reported in central France that continued into 2016.
- FMD is a highly contagious viral disease affecting cloven-hoofed animals, including domestic animals of high importance in the livestock sector, such as cattle. In the last two decades most parts of the EU were free of FMD outbreaks. However, when an outbreak occurs the consequences can be devastating. Since 2001 only very occasional outbreaks occurred (in the United Kingdom in 2007, and Bulgaria in 2011).
- Bovine tuberculosis is an infectious disease of cattle which can affect practically all mammals, including humans. In 2016 10 EU countries were not officially tuberculosis-free at country level.
- BHV-1 is known to cause several diseases (such as infectious bovine rhinotracheitis (IBR) or infectious pustular vulvovaginitis – both OIE-listed diseases) and is responsible for severe economic damage to the cattle industry worldwide. In Europe several countries and regions have achieved IBR-free status by implementing control measures.

In addition some emerging diseases should be mentioned such as the Schmallenberg virus (SBV), a disease first reported in the EU in 2011 and which affects ruminants (cattle, sheep and goats), causing congenital malformations and stillbirths. Since then outbreaks have been reported in eight MS. As it is an emerging disease, SBV is not on the OIE list of recognised diseases (unlike the aforementioned diseases).

Pig sector. African swine fever (ASF) is an increasing threat to EU pig production. There is a different situation in the eastern part of Europe. The disease is now believed to be endemic in parts of the Russian Federation and the Caucasus. In the Baltic states and Poland, during the period January 2014 to December 2015 2 060 cases occurred among wild boars and 147 outbreaks in domestic pigs. The first cases among wild boars appeared in Belgium in September 2018.

Poultry sector. Until 10 years ago all avian influenza viruses isolated from wild birds were low-pathogenic. Only after low-pathogenic avian influenza (LPAI) viruses are introduced in poultry, particularly in chickens and turkeys, do high-pathogenic avian influenza (HPAI) mutants emerge. In most of the reported HPAI outbreaks it was shown that the virus was introduced from wildfowl and then mutated into an HPAI variant. Recently HPAI virus has been found in migrating wild birds, which introduced the infection to local wild bird populations and poultry flocks, causing the European HPAI avian influenza epidemic in 2016.

Plant pests

Plant pests[31] cover two categories[32]: (i) quality pests and diseases which are endemic and continuously threaten plant health, causing small but frequent damage; the usual risk management strategy is crop protection, eradication not being required; (ii) quarantine pests and diseases which are not endemic to the EU territory but are introduced mainly through trade in plants[33]. Quarantine pests and diseases are harmful organisms, defined under legislation and difficult to control. They cause considerable damage to production in agriculture, forestry and gardening.

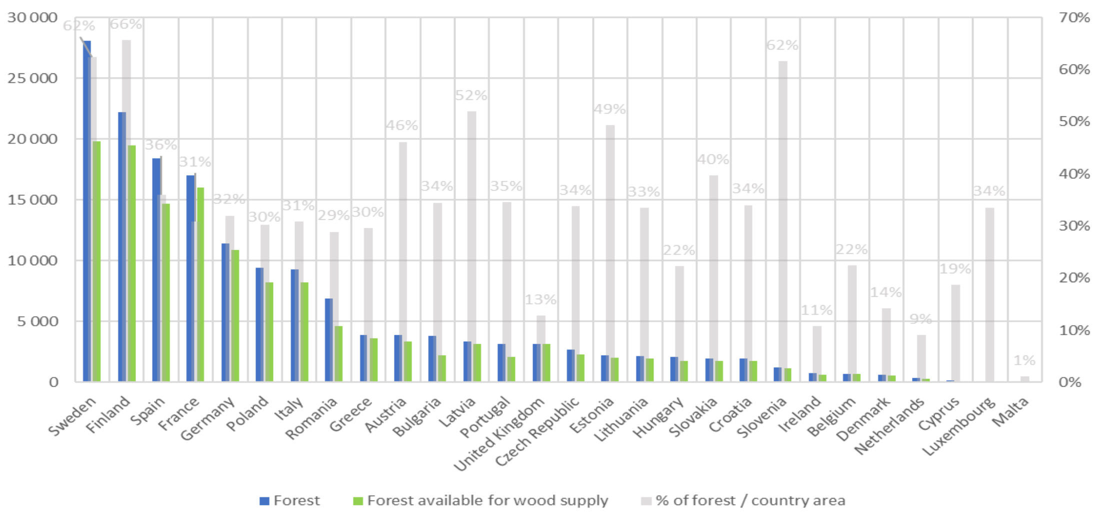
EU main crop producers are also those with the highest number of plant pest outbreaks (France (20% of the EU-28 crop output in 2015), Italy (14%), Spain (13%) and Germany (12%). The number of interceptions of quarantine pests is highest in the United Kingdom, Germany, France, the Netherlands and Latvia, which may be linked to their imports of plants and plant products. The EU Notification System for Plant Health Interception (EUROPHYT)[34] is a notification and rapid-alert system implemented in the EU to facilitate interceptions in plants and plant products.

2.2 Overview of the European forestry sector[35]

The European forest[36] covers about 161 million hectares, including 134 million hectares of forest available for wood supply (83.5%). Five MS contain 61% of the European forest: Sweden, Finland, Spain, France and Germany (see Figure 3).

Figure 3: Wooded areas in EU-28

Source: EUROSTAT Agriculture, forestry and fishery statistics, 2017 edition and online data (20-04-2018)



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31 Harmful organisms as defined in point (e) of Art. 2(1) of Council Directive 2000/29/EC.

32 https://www.consilium.europa.eu/en/policies/animal-plant-health-package/plant-health/.

33 Examples of highly harmful organisms are the *Pinewood Nematode* in Portugal and *Xylella fastidiosa* in Italy. The latter is a vector-transmitted bacterial plant pathogen associated with serious diseases in a wide range of plants, including plants in key agricultural sectors: grapes, citrus, prunus, olives, alfalfa, oak, maple, horticulture, forestry, etc. It was first detected in Europe on olive trees in Puglia, southern Italy, in October 2013. Since then it has also been reported as present in France and Spain.

34 It is a web-based network and database, connecting Plant Health Authorities of the EU MS and Switzerland and the European Food Safety Authorities.

35 Detailed figures are available in Annex 1.

36 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 not including land predominantly under agricultural or urban land use. A MS or region may choose to apply another forest definition based on existing national legislation or inventory systems. The MSs or regions must provide such a definition in the notification and, when it relates to a rural development measure, it should be covered in the rural development programme (GL part I, 2.4 (35) 9).

Organization of the forestry sector

60% of the European forest belongs to private owners, although there is great variability between individual MS. In many Eastern European countries (such as Bulgaria, Poland, the Czech Republic), forest is mainly in the public domain. In Western Europe (Portugal, Denmark, Sweden, France), forest is predominantly private.

Forest land in Europe is mostly small-scale. The average size of a private forest holding in the EU is about 13 hectares; however, the structure of private forest ownership is specific and considerable variations exist between MS. While forest properties range from 0.5 hectares to more than 10 000 hectares, nearly 66% of private owners have holdings of less than 3 hectares[37].

The organization of the forestry sector may differ according to the MS, but the following groups of stakeholders are common:

- Owners of the land: these can be public or private bodies, and the size of the average property varies greatly depending on the country.
- Forest managers: these can be forest management professionals, or the owners themselves. Both for public and private forests, management of the standing stock is the first step in the supply chain, known as the first transformation process.
- Logging companies: their activities are very varied, from plantation to felling trees and skidding (transporting the cut wood to a collection point). Sometimes they also own the land, or they manage the timber as part of wood acquisition. Their level of integration with forest ownership, forest cooperatives or the wood industry (including sawmills) differs a great deal from one country to another, and sometimes within the same country.
- Wood industrial units: these belong in one of the following three categories: sawmills; papermills or wood panel facilities; and fuelwood (firewood, chips or wood pellets).

The evaluation study concerns the first three categories. The concept of **forest holder** is used by the EC. Distinctions are made between the **ownership** and the **entity managing the forest**[38]. The term "private forest holder" refers to a private entity managing land of unspecified ownership, the word "private" referring to the holder, not to the forest.

Output

More than two-thirds of harvested timber is softwood (67.6%), i.e. coniferous species. It is mainly produced in Northern and Eastern Europe (Sweden 91%, the Czech Republic 89%, Austria 83%, Finland 79%, Germany 76% and Poland 74%). On the contrary, some MS with major forest areas, such as France, Italy and Romania, produce more hardwood (non-coniferous or broadleaved species) than softwood.

Economic activity related to forests

Germany and France recorded in 2015 the largest amounts of forestry output and connected secondary activities. In terms of importance relative to gross domestic product (GDP), the forest economy is more important in some MS than in others. For example, in Latvia and Estonia forestry output represents more than 2.5% of GDP, while in France and Germany it is less than 0.5% of GDP.

Gross fixed capital formation is an indicator of the level of investment in an industry and, as such, it may show how competitive the industry is in relation to its total gross value added. Based on the information available for 20 MS, €3.19 billion was invested in forestry and logging in 2014, amounting to 12.4% of gross value added (EU-28). Almost half of the investment that took place in 2014 was located in Sweden, Finland and the United Kingdom.

In terms of **employment**, the largest workforce was recorded in Poland, with 72 000 persons employed in 2015, followed by Romania, Italy, Germany and France. Labour productivity in the forestry and logging sector (calculated as gross value added per person employed) also varied substantially across EU MS in 2015. Using this measure, the highest levels of labour productivity were recorded in Sweden and Finland (> €50 000 per person),

[37] Confederation of European Forest Owners.
[38] EC (2014). Measure fiche forestry, measures 8&15, Art. 21-26 and 34, Reg (EU) No 1305/2013.

while at the other end of the scale Bulgaria, Cyprus, Hungary and Romania recorded productivity levels below €10 000 per person employed. This may also be strongly related to the mechanization rate.

EU policy context on the forestry sector

The TFEU makes no reference to specific provisions for an EU forestry policy. However, since forests and the forestry sector are closely related to other areas, the EU has developed strong involvement in forest-related policies. The EU Forest Strategy, adopted in 2013 by the Commission, provides a new framework for better addressing the challenges facing forests and the forestry sector. The strategy is implemented through several policies at the EU and national levels. However, at the EU level the main funding for the Forest Strategy is the co-financing of forestry measures under the RDR. As part of the EU RD policy, forest support should mainly contribute to two of the six common EU priorities: "Restoring, Preserving and Enhancing Ecosystems" (RD priority 4) and to "Promoting Resource-efficient, Climate-resilient Economy" (RD priority 5).

Risks linked to the forest

The major risk faced by forests is **fires**. This is mainly the case in the Mediterranean countries (Portugal, Spain, South of France, Italy, Croatia, Greece and Bulgaria), but also in Poland (FAOSTAT, 2012). Forest fires are mainly due to human activities (arson or negligence). Moreover the number and extent of forest fires varies considerably from one year to the next, depending on many factors including climatic conditions, vegetation, forest management practices and other socio-economic factors.

The main natural risks are storms and cyclones, with winds of abnormal intensity. Several MS have been affected over the years by exceptional storms or cyclones. For example, France and Germany were hit by storms or cyclones with heavy damage to forests - in France in 1999, 2009 and 2010, and in Germany in 1999, 2007 and 2018. Among natural risks for the forestry sector, earthquakes also have a strong impact, even if not all of Europe is equally affected. Last year the centre of Italy was strongly affected.

European forests may be attacked by pests or diseases of three main types:

- Pests which benefit from some existing weaknesses such as natural disasters which weaken the trees. Weakened trees often cannot fight these pests, although they usually manage to under normal conditions (for example, southwestern France was affected by bark beetle attack in 2010 and 2011 following the cyclone of 2009).
- Pests and diseases due to globalization, introduced by the increasing global trade (through logs, wooden pallets and wooden crates). Native tree species have not developed natural defences against these pests and diseases, which are furthermore not threatened by any natural predator. This is the notably the case of the Ash disease (from Poland), the Dutch elm disease (which probably came first from Asia and then a second time from America), or Pine wood nematode (from Japan).
- Pests and diseases which extend their area of occupation because of global warming.

Climate change is also of great concern for European foresters. Forest cycles are very long by nature. Currently it is very difficult to know if a species planted today under current climate conditions will be fully adapted to the regional climate 80 years later. This risk is difficult to anticipate at present, because climatic scenarios are not fixed. As forest cycles are very long, some species can be planted now and grow successfully for 30 years, and then begin to decline. On the contrary, some species that do not yet adapt in some regions may become perfectly adapted in 30 years.

2.3 Non-Annex I products

Agricultural products (i.e. those products referred to in Article 1 of Regulation (EU) No 1308/2013) are used among other things for manufacturing goods not listed in Annex I to the TFEU. "Non-Annex I" goods are listed in Annex II Regulation (EU) No 510/2014. The main product groups are processed dairy products; frozen fruit and vegetables; sugar confectionery, chocolate and cereal-based processed products (including biscuits and bakery); non-alcoholic beverages and all alcoholic beverages (beers and spirits but not wine); tobacco products; and casein and processed starch products.

3. DESCRIPTION AND USE OF SPECIFIC AID MEASURES

Section 3.1 introduces in detail the eight specific aid measures falling within the scope of the evaluation study. Section 3.2 presents an overview of the use of the agricultural SA instruments and measures defined by the 2014-2020 agricultural SA framework. In particular it provides an overview of the use of the instruments at the level of the EU-28; it focuses on the use of the eight specific aid measures falling within the scope of the evaluation study; and it presents the implementation of the specific aid measures in eight case study MS (hereafter referred to as “CS MS”).

3.1 Regulatory framework of the specific aid measures

The evaluation study is focusing on eight specific aid measures covered by the agricultural SA framework 2014-2020. The measures are divided into three groups:

- aid for undertakings active in the primary production of agricultural products (hereafter “agricultural risk management measures”) (see Table 1); namely aid related to adverse climatic events; animal diseases and plant pests; fallen stock; protected animals; and insurance premiums;
- aid for the forestry sector (hereafter “forestry measures”) (see Table 7); namely prevention and restoration of damage to forests; and forestry investments;
- aid for non-Annex I activities in rural areas (see Table 10); namely investments in non-Annex I products.

These aid measures have been selected by the terms of reference. Some belong to aid categories which aim at mitigating risks inherent to the agricultural sector (e.g. plant pests, animal diseases and adverse weather events) and which are unlikely to have significant distorting effects on competition and trade (measures related to adverse climatic events, animal diseases and plant pests, fallen stock, protected animals and insurance premiums) because they restore the situation to what it was prior to the adverse event. Others are new measures in the sense that they were introduced in the agricultural GL for the first time in 2014 and belong to aid categories considered to have considerable potential for distorting competition and trade unless they are closely circumscribed and monitored (measures referred to as forest technology investments and investments in non-Annex I products).

The following sub-sections present the scope and rules of the different regulations with regard to each of the eight specific aid measures. In particular, section 3.1.1 focuses on the aid measures related to agricultural risk management, section 3.1.2 on the aid to the forestry sector and section 3.1.3 on the aid for non-Annex I activities in rural areas.

3.1.1 Agricultural risk management measures

Table 1 presents the five risk-related State aid measures within the scope of the evaluation study, and their legal reference to the different SA instruments. Where relevant, reference is also made to the corresponding RD measure defined by the RDR. The first four agricultural risk management measures are not covered by the RDR. Aid for insurance premiums can be included in the RDP.

In the case of **SMEs active in the primary agricultural production**, such aid shall be compatible with the internal market within the meaning of Arts. 107(2) or (3) of the Treaty and shall be exempted from the standard notification requirement of Art. 108(3) of the Treaty where it fulfils the conditions laid down in the ABER Chapter 1 common provisions as well as a series of specific conditions described in the respective ABER articles.

Alternatively standard notification requirements apply, namely if **undertakings active in the primary sector are not only SMEs or if not all ABER provisions apply**. In such cases the Commission will consider the proposed aid compatible with the internal market under Art. 107(3)(c) of the Treaty if it complies with the common assessment principles and with the conditions set out in the agricultural GL (Part II, respective sections).

Table 1: Agricultural risk management measures under review

	ABER	GL	RDR
Aid to compensate for damage caused by adverse climatic event which can be assimilated to a natural disaster	Art. 25	S.1.2.1.2	/
Aid for the cost of the prevention, control and eradication of animal diseases and plant pests and aid to make good the damage caused by animal diseases or plant pests	Art. 26	S.1.2.1.3	/
Aid for fallen stock	Art. 27	S.1.2.1.4	/
Aid to compensate for the damage caused by protected animals	/	S.1.2.1.5	/
Aid for the payment of insurance premiums	Art. 28	S.1.2.1.6	Art. 37: Crop, animal and plant insurance (measure 17.1 of RDP).

Source: ADE, based on ABER, agricultural GL and RDR

The following sub-sections present in detail the specific conditions of the different SA instruments with regard to each of the five risk-related aid measures.

3.1.1.1 Aid to make good the damage caused by adverse climatic events that can be assimilated to natural disasters

ABER Art. 25 and agricultural GL Part II S.1.2.1.2 set out the specific provisions for the above-mentioned aid. Both instruments are very similar in terms of conditions, eligible costs, aid calculation and aid intensities (see Table 2). In particular, it is important to underline that an '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 production of the previous three years or of three of the last five years excluding the best and worst years.

Table 2: Provisions for aid related to adverse climatic events

	ABER, Art. 25	agricultural GL, Part II, S.1.2.1.2
Beneficiaries	SMEs active in primary agricultural production	Any undertaking active in the primary agricultural production
Conditions	Formal recognition of the character of the event as an adverse climatic event which can be assimilated to a natural disaster by a competent authority in the MS Need for direct causal link between the event and damage suffered by the undertaking Loss of more than 30% of the average production An aid scheme must be established within three years from date of occurrence of event, aid must be paid within four years of that date Aid must be paid directly to the undertaking concerned or to a producer group or organization	
Eligible costs	Damage directly incurred (loss of income and material damage)	
Aid calculation	At the level of the individual beneficiary Loss of income: income (=production*average selling price) after event minus average income in three year period preceding event; indexes can be used Material damage: based on the repair cost or economic value of affected asset	
Aid intensities	80% of eligible costs 90% in areas facing natural constraints Reduced by 50% unless it is given to beneficiaries who have taken out insurance covering at least 50% of their average annual production	
Reporting	Include meteorological information on the type, timing, relative magnitude and location of climatic events which can be assimilated to a natural disaster when transmitting their annual State aids report to the Commission	In the case of *ex-ante* schemes, MS must include meteorological information on the type, timing, relative magnitude and location of climatic events which can be assimilated to a natural disaster when transmitting their annual State aids report to the Commission

Source: ADE, based on ABER and agricultural GL

Aid granted shall be reduced by 50% unless it is granted to beneficiaries having insurance cover of at least 50% of their average annual production or production-related income and the statistically most frequent climatic risks in the MS or region concerned for which insurance cover is provided. However, in the agricultural GL, a derogation from this requirement is specifically permitted "… if a MS can convincingly show that, despite all reasonable efforts, affordable insurance covering the statistically most frequent climatic risks in the MS or region concerned was not available at the time the damage occurred".

3.1.1.2 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

The specific provisions related to aid for the costs of the prevention, control and eradication of animal diseases or plant pests and to aid providing such undertakings with compensation for losses caused by those animal diseases or plant pests are described respectively in ABER Art. 26 and in agricultural GL Part II, S.1.2.1.3. Conditions, eligible costs, aid calculation and aid intensities are presented in Table 3.

Table 3: Provisions for aid related to animal diseases or plant pests

	ABER, Art. 26	agricultural GL, Part II, S.1.2.1.3
Beneficiaries	SMEs active in primary agricultural production	Any undertaking active in the primary agricultural production
Conditions	Only for animal diseases or plant pests for which Union or national rules exist and as part of (i) a public programme containing a description of the prevention control or eradication measures, (ii) or an emergency measure imposed by MS, (iii) or measures to eradicate or contain a plant pest For animal diseases: aid shall only be granted in respect of animal diseases referred to in the list of animal diseases established by the World Organisation for Animal Health OIE or the animal diseases and zoonosis listed in Regulation (EU) No 652/2014 Formal recognition by competent authority of an outbreak (animal disease) or presence of plant pests Aid must be paid directly to the undertaking/producer group/organization concerned No individual aid shall be granted where it is established that the animal disease or the infestation with the plant pest was caused deliberately or by the negligence of the beneficiary An aid scheme must be established within three years from date of occurrence of event, aid must be paid within four years of that date	
Eligible costs	**Preventative measures**: (a) health checks; (b) analyses, including in-vitro diagnostics; (c) tests and other screening measures, including TSE and BSE tests[39]; (d) the purchase, storage, administration and distribution of vaccines, medicines, substances for the treatment of animals and plant protection products; (e) the preventative slaughtering or culling of animals or the destruction of animal products and plants and the cleaning and disinfection of the holding and equipment. **Control and eradication measures**: points (c), (d) and (e) of the preventative measures Aid to make good the **damage** caused	
Aid calculation	Market value of animals slaughtered or plants destroyed Loss of income due to quarantine obligations	
Aid intensities	100% of eligible costs	
Reporting	MS must include information on the relevant animal diseases or plant pests when transmitting their annual State aids report to the Commission	In the case of *ex ante* schemes, MS must include information on the relevant animal diseases or plant pests when transmitting their annual State aids report to the Commission

Source: ADE, based on legal instruments

Aid to cover the cost of preventative measures and for control and eradication measures shall generally be paid in kind to the provider of the prevention and eradication measures. However, a derogation which allows aid to be granted on the basis of reimbursement of the real costs incurred by the beneficiary applies to certain of the eligible costs listed for these cases.

Under the agricultural GL, in exceptional and duly justified cases the Commission may accept the costs incurred in carrying out necessary measures other than those specifically mentioned under the 'eligible costs' heading.

3.1.1.3 Aid for fallen stock

"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 any premises or during transport, but which have not been slaughtered for human consumption (ABER Art. 2 (15); GL part I, 2.4 (35) 27). ABER Art. 27 and agricultural GL

[39] '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, sorting and destruction of samples necessary for 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. (Art. 2(47) ABER).

Part II, S.1.2.1.4 set forward the specific conditions for aid for fallen stock in order to be considered compatible with the internal market. Table 4 presents an overview of the specific provisions.

Table 4: Provisions related to aid for fallen stock

	ABER, Art. 27	Agricultural GL, Part II, S.1.2.1.4
Beneficiaries	SMEs active in primary agricultural production	Undertakings active in primary agricultural production
Conditions	Existence of a consistent monitoring programme (for aid for removal and destruction of fallen stock) Aid shall be provided in kind and shall not involve direct payments to beneficiaries (aid can be paid to economic operators active downstream from the undertakings active in the livestock sector; or who provide services linked to the removal and destruction of fallen stock)	
Eligible costs and aid intensities	Administrative costs related to herd book – 100% Tests performed to determine genetic quality or yield of livestock – 70% Cost of removal of fallen stock – 100% Cost of destruction of fallen stock – 75% or 100% (TSE test obligation)	Costs of removal and destruction of fallen stock
Aid recipient	Aid can be paid to economic operators 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	Aid may be paid to a beneficiary where the livestock breeder who is the beneficiary of the aid acts also as service provider Aid can be paid to economic operators
Reporting	No specific requirements	

Source: ADE, based on legal instruments

Concerning eligible costs and corresponding aid intensities, in addition to the Table 4 provisions the following aid intensities can be granted:

- an equivalent aid intensity towards the costs of premiums paid by farmers for insurance covering the costs of the removal and destruction of fallen stock;
- aid at a rate of 100% for the costs of the removal and destruction of fallen stock where there is an obligation to perform TSE tests on the fallen stock concerned or in the event of an outbreak of an animal disease referred to in the list of animal diseases established by the OIE or the animal diseases and zoonoses listed in Annexes I and II to Regulation (EU) No 652/2014.

The agricultural GL reiterate, in relation to fallen stock and slaughterhouse waste, the Commission's policy of not authorising aid for fallen stock given to operators active in the processing of agricultural products and the marketing of agricultural products or 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.

3.1.1.4 Aid to compensate for damage caused by protected animals

The agricultural GL Part II, S.1.2.1.5 sets out the conditions and rules for aid to compensate for the damage caused by protected animals. Protected animals are defined as any animal protected either by Union or national legislation (GL part I, 2.4 (35) 28). They include, among others, bears, wolves, and lynxes.

Table 5 presents the conditions, eligible costs, aid calculation and aid intensities for this aid measure. Only aid to undertakings active in primary agricultural production is covered.

The minimum counterpart from beneficiaries must take the form of reasonable preventative measures proportionate to the risk of damage caused by protected animals in the area concerned. If no reasonable preventative measures are possible, the MS concerned should demonstrate the impossibility of taking such preventative measures in order for the aid to be considered compatible.

Table 5: Provisions for aid related to protected animals

	Agricultural GL, Part II, S.1.2.1.5
Beneficiaries	Undertakings active in primary agricultural production
Conditions	Minimum counterpart from beneficiaries to mitigate risk (reasonable preventative measures such as safety fences where possible, livestock guarding dogs) Direct causal link between damage and behaviour of protected animal must be established by the MS Paid directly to the undertaking concerned or to a producer group or organisation of which that undertaking is a member An aid scheme must be established within three years from date of occurrence of event, aid must be paid within four years of that date
Eligible costs	Costs of damage incurred as a direct consequence: animals killed or plants destroyed, indirect costs, material damage to specific assets Investments related to measures to prevent damage by protected animals may be supported under the conditions of the agricultural GL, Part II S.1.1.1.1 on investment aid in agricultural holdings
Aid calculation	At the level of the individual beneficiary Market value
Aid intensities	100% of eligible costs Compensation for indirect costs: proportionate and not more than 80% of total indirect eligible costs
Reporting	No specific requirements.

Source: ADE, based on agricultural GL

3.1.1.5 Aid for the payment of insurance premiums

RDR Art. 36, addressing risk management, allows MS to provide "financial contributions to premiums for crop, animal and plant insurance against economic losses to farmers caused by adverse climatic events, animal or plant diseases, pest infestation, or an environmental incident" [40]. However, financial support can only be provided for eligible events which are further defined in RDR Art. 37. Specifically, under the RDR support could only be provided for insurance contracts which cover losses of more than 30% of the average annual production of the farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entries[41]. If the measure is included in the RDP, then – by virtue of Art. 42 TFEU – the SA rules are not applicable. If support is provided outside the context of the RDP, then SA clearance needs to be sought.

For aid for the payment of insurance premiums to be compatible with the internal market within the meaning of Art. 107(3)(c) of the Treaty, a series of specific conditions to be fulfilled are described in ABER Art. 28 and agricultural GL Part II, S.1.2.1.6.

Aid will only be considered eligible if it does not constitute a barrier to the operation of the internal market for insurance services; it is not limited to insurance provided by a single insurance company or group of companies; and it is not made subject to the condition that the insurance contract be taken out with a company established in the MS concerned. Reinsurance schemes will be examined on a case-by-case basis using the agricultural GL. The other specific provisions of both instruments are presented in Table 6.

[40] An 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; but does not cover general environmental risks not connected with a specific event, such as climate change or atmospheric pollution (Art. 2(1)j of Regulation (EU) No 1305/2013).

[41] This 30% rule was relaxed to 20% in the Omnibus Agricultural Provisions Regulation (EU) No 2393/2017 to promote the use of insurance by farmers with effect from 1 January 2018. Furthermore, with a view to increasing the use of crop, animal and plant insurance, and of mutual funds and the income stabilisation tool, the maximum percentage of initial public support was increased from 65% to 70%. Because there is no minimum loss specified for insurance contracts eligible for public support in both ABER and agricultural GL, providing this support as State aid gave additional flexibility to MS. In these circumstances, where no EU co-financing is involved, this support is treated as pure State aid.

Table 6: Provisions for aid related to insurance premiums

	ABER, Art. 28	agricultural GL, Part II, S.1.2.1.6
Beneficiaries	SMEs active in primary agricultural production	Undertakings active in primary agricultural production
Conditions	Insurances shall be intended to cover losses caused by natural disasters, an adverse climatic event which can be assimilated to a natural disaster and other adverse climatic events, animal diseases or plant pests, and protected animals The insurance shall compensate only the cost of making good these losses and shall not require or specify the type or quantity of future agricultural production.	Same 4 causes + damage caused by environmental incidences[42] (if formally recognised as such by the competent authority of the MS concerned)
Eligible costs	Cost of the insurance premium	
Aid calculation	/	
Aid intensity	65% of the costs of the insurance premium MS may limit the amount of the insurance premium that is eligible for aid by applying appropriate ceilings	65% of the cost of the insurance premium Exception: 100% of the cost of the insurance premium for the removal of fallen stock; 75% of the cost of the insurance premium for the destruction of fallen stock MS may limit the amount of the insurance premium that is eligible for aid by applying appropriate ceilings
Reporting	No specific requirements	

Source: ADE, based on legal instruments

3.1.2 Forestry measures

In contrast with the agricultural sector, the TFEU does not make provision for a common forest policy. Nevertheless, MS and the EU have for long coordinated EU measures supporting certain forest-related activities. Moreover, forests are affected by numerous EU sectoral policies (environment, industry, etc.).

As outlined in Section 2.2, the forestry sector falls outside the scope of Art. 42 of the TFEU and Annex I thereto. Hence Arts. 107, 108 and 109 TFEU apply to aid granted by MS to the forestry sector. As such, the agricultural SA instruments cover (i) aid to the forestry sector which is co-financed by the EAFRD or aid granted as additional national financing to such co-financed measures, and (ii) aid granted as pure State aid (mainly RD-like measures).

Forestry measures can be exempted from the notification requirement (Art. 108(3) TFEU) where they fulfil the conditions laid down in ABER Chapter 1 as well as a series of specific conditions described in the respective ABER articles. However, ABER does not apply to aid to the forestry sector which is not co-financed by the EAFRD or granted as additional national funding for such co-financed measures, with the exception of a selected number of measures[43] falling outside the scope of the evaluation study. Alternatively the Commission will consider whether the proposed aid is compatible with the internal market under Arts. 107(2)(b) or 107(3)(c) TFEU, as the case may be, if it complies with the common assessment principles and with the specific conditions set out in the agricultural GL[44].

This evaluation study is focusing on two forestry measures, presented in Table 7, as well as the corresponding RDR reference.

[42] This includes also coverage of the removal and destruction of fallen stock.
[43] Art. 31, 38, 39 and 43.
[44] It has to be underlined that the agricultural Guidelines cover investments related to the use of wood as raw material or energy source (limited to all working operations prior to industrial processing). Aid for investments in energy saving and renewable energies are also excluded. The agricultural Guidelines do not apply to forest based industries.

Table 7: Forestry measures under review (ABER, agricultural GL) and RDR reference

	ABER	agricultural GL	RDR
Aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests and catastrophic events.	Art. 34	S.2.1.3	Art. 24: Prevention and restoration of damage to forests from forest fires and natural disasters and catastrophic events (measures 8.3 and 8.4 of RDP).
Aid for investments in forestry technologies and in processing, mobilising and marketing of forestry products.	Art. 41	S.2.1.5	Art. 26: Investments in forestry technologies and in processing, in mobilising and in the marketing of forest products (measure 8.6 of RDP).

Source: ADE, based on ABER, agricultural GL and RDR

Compared to the reference period, the main changes related to the forestry sector are the following: (i) the introduction of these two measures (among others) in ABER, with the objective of facilitating SA clearance for the underlying co-financed RD measures or top-ups; and (ii) the introduction of the forestry investment measure in the agricultural GL. The agricultural GL were applicable only for the prevention and restoration of damage to forests, and the general *de minimis* aid could also be used (as well as GBER or RAG for investments only). This change is visualised in Annex 1 Figure 4.

The following paragraphs present in detail the specific conditions of the different SA instruments for the two forestry aid measures under review.

3.1.2.1 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

The specific provisions for aid for the prevention and restoration of damage to forests are described in ABER Art. 34 and in the agricultural GL Part II, S. 2.1.3. Whereas ABER can be used to obtain clearance for aid granted only in the framework of an RDP (either as aid co-financed by the EARFD or as additional national funding), the agricultural GL also provide the opportunity of obtaining clearance for RD-like measures financed exclusively from national resources (pure State aid).

The eligible operations shall be consistent with the forest protection plan established by the MS. Only forest areas which are classified as a medium-to-high forest fire risk according to the forest protection plan established by the MS concerned shall be eligible for aid for prevention of fire. For beneficiaries above a certain size, to be determined by the MS in the RDP, the aid shall be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management, detailing the preventative objectives. Table 8 presents in more detail the specific provisions of both instruments.

Table 8: Provisions for aid related to the prevention and restoration of damage to forests

	ABER, Art. 34	agricultural GL, Part II, S.2.1.3
Beneficiaries	Private and public forest holders, and other private law and public bodies and their associations	Private and public forest holders and other private law and public bodies and their associations No restriction for RD-like forestry measures funded exclusively from national resources (§498)
Conditions	Granted in the framework of a RDP (either as aid co-financed by the EARFD or as additional national funding) and be identical to the underlying RD-measure	Granted in the framework of a RDP (as aid co-financed by the EARFD or as additional national funding) and be identical to the underlying RD-measure or Financed exclusively from national resources in the form of a RD-like measure
	Coherence with forest protection plan (only forests classified at risk eligible for aid for prevention of fire) or equivalent instrument For holders of a certain size and if support via RDP: presentation of a forest management plan	
Eligible costs	Establishment of protective infrastructure	

	ABER, Art. 34	agricultural GL, Part II, S.2.1.3
	Small-scale prevention activities Improving **monitoring facilities** and communication equipment **Restoring forest potential damaged by event** (formal recognition of event required, destruction of at least 20% of the relevant forest potential) NOT: loss of income Maintenance costs in the case of firebreaks NOT: agricultural related activities in areas covered by agri-environmental commitments	
Aid intensity	100% of eligible costs	
Reporting	RDP should include list of harmful organisms (for aid for prevention of damage)	Notification should include list of harmful organisms (for aid for prevention of damage)

Source: ADE, based on legal instruments

In the case of aid to restore forest potential, the competent authority of the MS must formally recognise that a damaging event has occurred and that it has caused the destruction of at least 20% of the relevant forest potential. In the case of aid for prevention of damage to a forest from plant pests, the risk of occurrence of the plant pest shall be supported by scientific evidence and acknowledged by a scientific public organisation.

3.1.2.2 Aid for investments in forestry technologies and in processing, mobilising and marketing of forestry products

The specific provisions for aid for investments in forestry technologies and in processing, mobilising and marketing of forestry products are described in ABER Art. 41 and agricultural GL Part II, S.2.1.5. As for the previous forestry measure, ABER can be used to obtain clearance for aid granted only in the framework of an RDP (either as aid co-financed by the EARFD or as additional national funding), while agricultural GL provide the opportunity to obtain clearance for RD-like measures financed exclusively from national resources (pure State aid). Table 9 highlights the main elements related to these provisions.

Table 9: Provisions for aid related to forestry investments

	ABER, Art. 41	agricultural GL, Part II, S.2.1.5
Beneficiaries	Private forest holders, municipalities and their associations and to SMEs	Private forest holders, municipalities and their associations and to SMEs
Conditions	Granted in the framework of a RDP (as aid co-financed by the EARFD or as additional national funding) and be identical to the underlying RD-measure	Granted in the framework of a RDP (as aid co-financed by the EARFD or as additional national funding) and be identical to the underlying RD-measure or Financed exclusively from national resources in the form of a RD-like measure
	For holders of a certain size and if support via RDP: presentation of a forest management plan Investments eligible for aid shall be in conformity with Union legislation and with national laws of the MS concerned on environmental protection	
Eligible costs	a) Construction, acquisition of immovable property (land only eligible up to 10% of the total eligible costs of the operation concerned) b) Purchase or lease purchase of machinery and equipment c) General costs related to a) and b) and feasibility studies d) Computer software and acquisitions of patents, licences, etc. e) Cost of establishing forest management plans NOT: working capital	
Aid intensity	75% of the amount of eligible costs for investments in outermost regions and smaller Aegean islands 50% of the amount of eligible costs for investment in less developed regions and in regions with GDP 2007-2013 < 75% average EU-25 reference period but > 75% of average EU-27 40% of the amount of eligible costs for investments in other regions	
	Aid per investment project limited at €7.5 million	
Reporting	No specific requirements	

Source: ADE, based on legal instruments

Eligible investments are restricted in various ways. Investments related to the improvement of the economic value of forests shall be justified in relation to expected improvements to forests on one or more holdings and may include investments for soil- and resource-friendly harvesting machinery and practices. Investments related to the use of wood as a raw material or energy source shall be limited to all operations prior to industrial processing.

3.1.3 Non-Annex I activities in rural areas

The evaluation study focuses on aid for investments for the processing of agricultural products into the non-agricultural products mentioned in Table 10. In the reference period this type of investment was not covered by the agricultural SA framework (see Annex 1 Figure 4). According to the previous ABER (Regulation (EC) No 1857/2006), investments in processing and marketing of agricultural products (including processing into non-Annex I products) were assimilated into industrial products (see recital (6)). The former agricultural GL (2006/C 319/01) did cover processing and marketing of agricultural products but only if the resulting products remained agricultural products.

The revision of the agricultural SA instruments widened the scope of ABER and agricultural GL to align with the new GBER and RDR. The latter cites two articles for such measures: (i) Art. 17.1(b), which includes support for investments for processing, marketing or development of agricultural products covered by Annex I to the Treaty of which the output of the production process may be a product not covered by that Annex; *and* (ii) Art. 19.1(b) which covers investments in creation and development of non-agricultural activities which includes the processing of agricultural products into non-agricultural products.

Table 10: Non-Annex I investment measure under review and RDR reference

ABER	agricultural GL	RDR
Art. 44: Aid for investments concerning the processing of agricultural products into non-agricultural products or the production of cotton.	S.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.	Art. 17.1(b): Investment in physical assets which concern the processing, marketing and/or development of agricultural products covered by Annex I to the Treaty or cotton, except fishery products; the output of the production process may be a product not covered by that Annex (measure 4.2 of RDP). Art. 19.1(b): Investments in creation and development of non-agricultural activities (measure 6.4 of RDP) (the measure is broader than art. 44).

Source: ADE, based on ABER, agricultural GL and RDR

We present in the following section the specific provisions related to this aid measure.

3.1.3.1 Aid for investments concerning the processing of agricultural products into non-agricultural products

Aid for non-Annex I investments granted to SMEs is deemed to be compatible with the internal market within the meaning of Art. 107(3)(c) of the Treaty if it complies with the common assessment principles and with the conditions set out in the agricultural GL Part II S.3.1. Such aid can be exempted from the standard notification requirement of Art. 108(3) where it fulfils the conditions laid down in ABER Chapter 1 as well as a series of specific conditions described in ABER Art. 44.

In order to seek clearance using ABER or agricultural GL, aid must be granted within an RDP either as aid co-financed by the EAFRD or as additional national financing for such aid. The aid shall also be identical to the underlying RD measure to which reference is made. Table 11 presents the other conditions bearing on this aid. The aid shall cover investments in tangible and intangible assets. Aid intensities for SMEs are exactly the same under the ABER and the agricultural GL.

Table 11: Provisions for aid related to non-Annex I investments

	ABER, Art. 44	agricultural GL, Part II, S.3.1
Beneficiaries	SMEs	Undertakings active in rural areas
Condition	Part of RDP (co-financed by the EAFRD or additional national financing) Identical to underlying RD measure	
Eligible costs[45]	Immovable propriety Machinery and equipment Intangible assets NOT: investments linked to biofuel or renewable energy	
Aid intensities	Variation in aid intensities in function of the types of regions Higher aid rates apply to the outermost regions, less developed regions and 'c' areas The maximum aid intensities may be increased by up to 10 percentage points for micro and small enterprises Aid per investment project limited at €7.5 million	

Source: ADE, based on legal instruments

3.2 Overview of the use of agricultural State aid instruments and measures by Member States

3.2.1 Use of the agricultural State aid instruments

This section presents an overview of the use of the agricultural SA instruments, based on all aid schemes block-exempted or notified during the examination period regardless of the individual measures covered. Indeed, the agricultural SA instruments 2014-2020 include a wide range of measures: 63 aid measures (sections) in the agricultural GL and 36 measures (articles) in ABER.

A total of 1 468 aid schemes[46] were block-exempted or notified under the agricultural SA framework by the MS during the examination period (see Annex 2 Table 1). 85% of the aid schemes (1 241) were based on the block-exemption procedure (ABER), while 213 (15%) were notified based on the agricultural GL[47]. Italy has introduced the largest number of block-exempted aid schemes (209), followed by Slovenia (159)[48], Germany (138) and Spain (111). These are decentralised MS (except Slovenia) with exemptions also submitted by region. As for notified aid schemes, Germany notified 52 such schemes during the period under review, followed by Italy (38), the Czech Republic (14) and Spain (10). Malta did not block-exempt or notify any State aid on the basis of the agricultural SA framework during the examination period.

Total SA expenditures from the aforementioned aid schemes[49] amount to €6 582.5 million at EU-28 level for the period July 2014-December 2016 (see Annex 2 Table 2). Half of it (€3 486.4 million) was disbursed by four MS, which are also the largest agricultural producers in the EU in terms of agricultural output (Eurostat): Italy (€996.8 million), Germany (€905.5 million), Spain (€821.4 million) and France (€762.7 million).

Exempted aid schemes at EU-28 level have disbursed €4 257.2 million, 65% of the total amount of expenditures registered during the period. Italy, the United Kingdom, France and Germany registered expenditures of up to €2 309.4 million. Notified aid schemes disbursed in total €2 183.3 million, of which €568.6 million was disbursed by Spain and €320.3 million by Italy. Greece did not register any expenditure (although it block-exempted 30 and notified two aid schemes during the examination period).

45 Eligible costs include: (a) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10% of the 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; (c) general costs linked to 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 shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred; (d) acquisition or development of computer software and acquisitions of patents, licenses, copyrights and trademarks.

46 We refer to section 4.3 for the detailed approach in identifying cases falling within the scope of the evaluation study. For ease of reference, this number concerns cases having been block-exempted or notified during the examination period based on the instruments defined by the 2014-2020 agricultural SA framework.

47 Ten cases (from Bulgaria, Cyprus, Czech Republic, Italy, Netherlands and Sweden) were unlawful aid (i.e. non-notified aid or aid that was notified but granted before the Commission reached a decision) and four cases have been classified as contradictories (i.e. case in which the Commission opened the formal investigation procedure due to doubts as to the compatibility of the measure with the common market).

48 Note that the important number of cases in Slovenia reflects a specific situation of support related to insurance which is implemented at municipal level (93 block-exemtped cases during the examination period).

49 Meaning cases block-exempted or notified during the examination period.

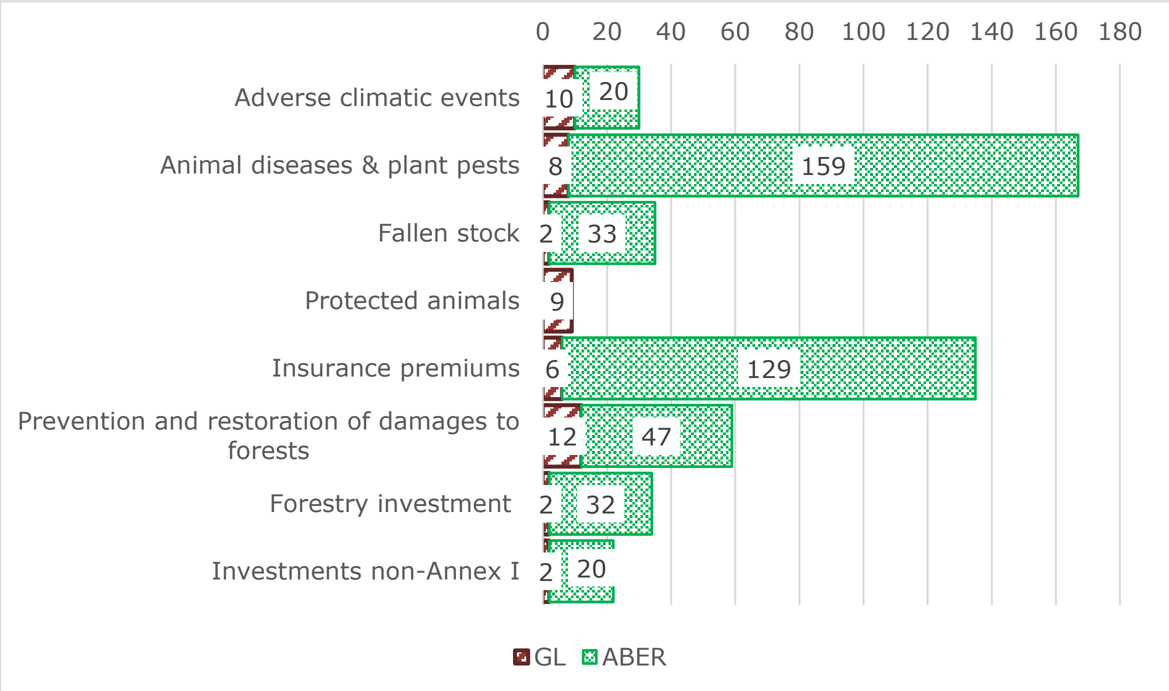
3.2.2 Use of the specific aid measures at the level of EU-28

3.2.2.1 Distribution of aid schemes among the specific aid measures

Of the 1 468 aid schemes block-exempted or notified during the examination period, **455 provide support for one (or more)**[50] **of the eight aid measures subject to this evaluation study**. Of these, 50 have been notified while the remaining (405) were block-exempted (i.e. implemented on the basis of the ABER). Figure 4 presents the distribution of the number of aid schemes per aid measure at the level of the EU-28. More precisely,

- notified aid schemes are distributed over all the aid measures under review, but with a concentration on the following measures: (i) aid for damage from forest fires, adverse climatic events (24%); (ii) aid for damage caused by adverse climatic events (20%); (iii) aid for damage caused by protected animals (18%); and (iv) aid for costs of prevention, control, eradication of animal diseases and plants pests (16%);
- concerning the block-exempted aid schemes, the following are the most targeted: (i) animal diseases and plants pests (39.2%); (ii) forest fires, adverse climatic events (11.6%); and (iii) insurance premiums (32%).

Figure 4: Distribution of aid schemes according to the aid measures under review (EU-28, number of aid schemes)



Source: ADE, based on data from DG COMP

Looking at the level of the individual MS, Slovenia accounts for the largest number of aid schemes within the evaluation's scope (insurance premiums). However, this is an atypical situation given that 93 block-exempted aid schemes are managed at municipal level. Slovenia is followed by Italy, Germany, and Spain (respectively 63, 48 and 44 aid schemes). These MS have also the largest number of block-exempted aid schemes: Italy 56, Germany 40 and Spain 41. Of the 50 notified aid schemes, eight were notified by Germany and seven by Italy.

The detailed distribution of the number of aid schemes within the evaluation's scope by instrument, aid measure and MS can be found in Annex 3 (Table 4).

[50] The analysis of cases revealed that a case can include more than one measure (see Annex 3 Table 3). A case falls within the evaluation scope if it covers at least one of the eight aid measures subject to this evaluation study. See also section 4.3. Througout the study, a case with more than one measure is counted for each of the measures under review. For example, if a case provides support for adverse climatic events, prevention and restoration of forests from damage and a third measure not covered by the evaluation, then the case is counted for in adverse climatic events and also in prevention and restoration of forests from damage.

3.2.2.2 *Actual spending by specific aid measure*

During the examination period a total amount of €2 590.5 million was spent in favour of the selected aid measures. This corresponds to 39% of total agricultural SA expenditure (all measures, all aid schemes) during the examination period. Expenditures are concentrated under **theme 1 "Risk management"** which accounts for **€2 517.9 million (82%).** Measures grouped under the two other themes account for more limited expenditure, respectively €65.4 million (2%) in favour of forestry and €7.1 million in favour of non-Annex I activities (see Table 12).

The majority of expenditures are for aid for insurance premiums. With a total disbursement of €1 142.7 million (€646 million GL and €497 million ABER), it represents 44% of all expenditures within the evaluation's scope. These expenditures relate to two MS (83% of the total expenditure under insurance premiums) – Spain (53%) and Italy (30%). However, it is important to underline that Italy had expenditures in favour of insurance premiums during the period under review totalling €338.5 million where the RDP is taking over this support. Therefore future expenditures will no longer need SA clearance.

Table 12: Distribution of total expenditures (€m) per measure and per agricultural SA instrument, and share in total expenditure

Measures	GL	ABER	GL & ABER	% of TOTAL for measures in scope
Adverse climatic events	78.3	429.8	508.1	20%
Animal diseases & plant pests	99.6	621.1	720.7	28%
Fallen stock	0.02	141.4	141.5	5%
Protected animals	4.9	-	4.9	0.2%
Insurance premiums	645.9	496.9	1 142.7	44%
Prevention and restoration of damage to forests	16.7	44.6	61.3	2%
Forestry investment	-	4.1	4.1	0.2%
Investments non-Annex I	-	7.1	7.1	0.3%
TOTAL measures/objectives in scope	845.5	1 745.0	2 590.5	100%

Source: ADE, based on data from DG COMP

Expenditures related to animal diseases and plant pests represent 28% of total expenditure on the aid measures within the evaluation's scope. It amounts to €720.7 million, mainly provided under ABER (€621.1 million). This measure is widely used by the MS. Available data shows that the United Kingdom has registered significant expenditure under this measure (€293 million), while other countries with significant totals are France, Germany, Italy and Poland.

Another large group of expenditures are those targeted on **adverse climatic events**. They account for €508.1 million (20% of the total for measures within the scope), the main part of the budget being spent under ABER aid schemes in France, Poland and Italy.

Measures with non-negligible expenditures during the period July 2014-2016 are:

- Fallen stock measures which amount to €141.5 million, almost all under ABER (5% of the total for measures within the evaluation's scope);
- Prevention and restoration of damage to forests: €61.2 million were spent (2%); *and*
- The other measures show more limited expenditures: damage by protected animals (€4.9 million), forestry investment (€4.1 million) and investments in non-Annex I categories (€7.1 million).

At the level of the individual MS, the distribution of expenditures is presented in Table 13. Spain has registered the largest volume of expenditures (€746.52 million), mainly from a notified aid scheme targeted on support for insurance premiums (€553.43 million).

Table 13: Expenditures per measure, per SA instrument and per MS (July 2014-2016) for aid schemes falling within the evaluation scope

MS	Adverse climatic events		Animal diseases & plant pests		Fallen stock		Protected animals	Insurance premiums		Prevention and restoration of damages to forests		Forestry investment		Non-Annex I		TOTAL measures in scope		
	GL	*ABER*	*GL*	*ABER*	*GL*	*ABER*	*GL*	*GL*	*ABER*	*GL*	*ABER*	*GL*	*ABER*	*GL*	*ABER*	*GL*	*ABER*	*GL&ABE*
Austria	-	51,00	-	0,97	-	0,04	-	-	50,08	-	0,07	-	0,04	-	5,08	-	107,26	107,26
Belgium		7,43		0,01		18,60			-		-		-		-	-	26,04	26,04
Bulgaria	5,85	-	-	14,77	-	-	-	-	1,32	-	-	-	-	-	0,62	5,85	16,71	22,56
Croatia		-		-		-			-		-		-		-	-	-	-
Cyprus	5,96	-	-	2,17	-	3,24	-	-	-	-	-	-	-	-	-	5,96	5,41	11,37
Czech Republic	**-**	**-**	**3,80**	**0,63**	**-**	**-**	**-**	**-**	**35,74**	**-**	**-**	**-**	**0,02**	**-**	**-**	**3,80**	**36,40**	**40,19**
Denmark	-	-	-	0,02	-	-	-	-	-	1,58	-	-	-	-	-	1,58	0,02	1,60
Estonia	**-**	**-**	**0,27**	**2,79**	**-**	**0,70**	**-**	**-**	**0,02**	**-**	**0,16**	**-**	**0,81**	**-**	**-**	**0,27**	**4,49**	**4,76**
Finland	**-**	**-**	**-**	**0,70**	**-**	**10,08**	**1,46**	**-**	**-**	**8,40**	**-**	**-**	**-**	**-**	**1,30**	**9,86**	**12,08**	**21,95**
France	**-**	**172,77**	**20,00**	**52,54**	**-**	**-**	**-**	**-**	**-**	**0,09**	**2,22**	**-**	**-**	**-**	**-**	**20,09**	**227,53**	**247,61**
Germany	**-**	**-**	**10,52**	**76,25**	**0,02**	**21,33**	**0,46**	**-**	**-**	**0,34**	**3,08**	**-**	**0,30**	**-**	**-**	**11,34**	**100,96**	**112,30**
Greece	-		-		-		-	-		-		-		-		-	-	-
Hungary	-	-	-	58,40	-	-	-	-	9,62	-	-	-	-	-	-	-	68,02	68,02
Ireland	-	-	-	-	-	11,63	-	-	-	0,45	-	-	-	-	-	0,45	11,63	12,08
Italy	**-**	**69,62**	**0,29**	**45,87**	**-**	**4,33**	**0,94**	**3,34**	**338,35**	**-**	**18,43**	**-**	**1,86**	**-**	**-**	**4,57**	**478,46**	**483,03**
Latvia		-		-		2,02			1,15		0,05		-		-	-	3,22	3,22
Lithuania	-	-	-	0,41	-	5,53	0,38	-	4,77	-	-	-	-	-	-	0,38	10,71	11,09
Luxembourg		-		-		-			-		-		-		-	-	-	-
Malta																-	-	-
Netherlands	-	-	64,73	0,32	-	-	-	-	-	-	-	-	-	-	-	64,73	0,32	65,06
Poland	**-**	**127,01**	**-**	**43,65**	**-**	**51,58**	**-**	**89,11**	**-**	**5,84**	**-**	**-**	**-**	**-**	**-**	**94,96**	**222,23**	**317,19**
Portugal		-		-		-			-		0,60		-		-	-	0,60	0,60
Romania	66,51		-		-		-	-		-		-		-		66,51	-	66,51
Slovakia		-		0,98		-			-		15,05		-		-	-	16,03	16,03
Slovenia	-	-	-	-	-	-	-	-	2,99	-	-	-	-	-	-	-	2,99	2,99
Spain	**-**	**1,96**	**-**	**4,28**	**-**	**11,79**	**-**	**553,43**	**52,82**	**-**	**-**	**-**	**-**	**-**	**0,12**	**553,43**	**70,97**	**624,40**
Sweden	-	-	-	23,07	-	0,58	1,70	-	-	-	-	-	-	-	-	1,70	23,65	25,35
United Kingdom		-		293,24		-			-		4,94		1,08		-	-	299,25	299,25
TOTAL	78,32	429,78	99,61	621,08	0,02	141,44	4,95	645,88	496,85	16,71	44,59	-	4,11	-	7,12	845,48	1.744,98	2.590,5

Source: ADE, based on data from DG COMP

3.2.2.3 Agricultural State aid measures compared to the CAP expenditure during the examination period and the output generated by the agricultural sector

It is important to put the figures of SA expenditure on the eight agricultural SA measures presented in the previous section into perspective with respect to the CAP expenditure and to the output generated by the EU agricultural sector. Table 14 presents the agricultural production (measured by the agricultural output) for EU-28, the CAP support (first and second pillar) and SA expenditures for the risk management aid measures during the examination period, as well as the share of the risk management SA measures as compared to the total CAP support. Total SA expenditures for the agricultural risk management measures represents less than 1% of the CAP support in most MS, but around 1.5% for the Netherlands, Italy and Spain (2.15% for Cyprus) for the period. Similar, total SA expenditures for the measures concerned represents only a very small share of the agricultural production, with always less than 1% (SA/agricultural output).

Table 14: Agricultural production for EU-28, CAP support and SA expenditures for the eight specific aid measures (€ million)

Member State	Agricultural output, 2014-2016 period	Financial spending under Pillar I and II CAP, 2014-2016 period	SA expenditures 2014-2016	Total SA measures in the scope/Financial spending under CAP	SA expenditures/ agricultural output
			Risk management		
Austria	18 455.3	13 166.6	102.1	0.81%	0.55%
Belgium	24 085.8	3 213.0	26.0	0.81%	0.11%
Bulgaria	11 209.9	7 957.3	21.9	0.28%	0.20%
Croatia	5 837.2	2 913.6			
Cyprus	1 926.8	527.8	11.4	2.15%	0.59%
Czech Republic	13 837.4	9 873.3	40.2	0.41%	0.29%
Denmark	28 841.6	4 562.4	0.0	0.04%	0.00%
Estonia	2 308.8	2 399.9	3.8	0.20%	0.16%
Finland	11 294.3	9 750.4	12.2	0.23%	0.11%
France	201 100.2	44 322.8	245.3	0.56%	0.12%
Germany	154 224.2	36 588.0	108.6	0.31%	0.07%
Greece	28 986.0	7 220.8			
Hungary	22 569.9	12 609.7	68.0	0.54%	0.30%
Ireland	21 042.3	10 275.9	11.6	0.12%	0.06%
Italy	136 395.2	33 011.3	462.7	1.46%	0.34%
Latvia	3 607.4	3 037.5	3.2	0.11%	0.09%
Lithuania	7 681.6	6 170.0	11.1	0.18%	0.14%
Luxembourg	1 164.1	330.4			
Malta	361.1	166.0			
Netherlands	70 911.1	4 516.0	65.1	1.44%	0.09%
Poland	65 967.5	34 520.5	311.3	0.92%	0.47%
Portugal	19 894.3	17 600.6		0.003%	
Romania	42 665.2	21 083.7	66.5	0.32%	0.16%
Slovakia	6 189.3	4 881.2	1.0	0.33%	0.02%
Slovenia	3 668.4	2 940.4	3.0	0.10%	0.08%
Spain	132 575.7	33 333.0	624.3	1.87%	0.47%
Sweden	16 269.9	8 141.7	25.4	0.31%	0.16%
United Kingdom	83 365.6	29 216.9	293.2	1.02%	0.35%
TOTAL	1 136 436.0	364 330.6	2517.9		

Source: ADE, based on Eurostat

3.2.3 Use of the specific aid measures in selected MS

The evaluation study focused on an in-depth review of the implementation of the specific aid measures in selected MS, namely the Czech Republic, Estonia, Finland, France, Germany, Italy, Poland and Spain (8 CS MS). The review has allowed further clarification of the budget, actual expenditures, and aid instruments, including some information on beneficiaries. An overview is presented below but details are also available in the relevant Evaluation Questions.

3.2.3.1 Indicative budget and actual expenditures

In the 8 CS MS, 185 aid schemes were block-exempted and 32 notified during the examination period. As highlighted before, an aid scheme may cover more than one measure. Budgets are established at the level of a scheme, and are also registered in the DG COMP State aid database at this level. Therefore the evaluator has been unable to link the budget provision with the individual measures. Table 15 presents the **indicative budget** for all aid schemes by CS MS with at least one aid measure falling within the evaluation scope .

Table 15: Indicative (planned) budget for aid schemes within the scope of the study (€m) compared to actual expenditure

MS	Number of aid schemes	A. Planned budget EUR millions	B. Expenditure EUR millions (all measures)	C. Expenditure EUR millions (measures in scope)	% (B/A)	% (C/A)
Czech Republic	15	332.0	41.1	40.2	12%	12%
Estonia	9	115.7	4.8	4.8	4%	4%
Finland	6	677.9	70.8	21.9	10%	3%
France	16	2 062.6	249.6	247.6	12%	12%
Germany	48	2 263.0	323.6	112.3	14%	5%
Italy	63	3 755.2	502.4	483.0	13%	13%
Poland	16	3 249.3	367.3	317.2	11%	10%
Spain	44	4 227.5	743.8	624.4	18%	15%
TOTAL	217	16 683.2	2 303.4	1 851.4	14%	11%

Source: ADE, based on data from DG COMP

A total of €16.7 billion is planned for State aid by the 8 CS MS for schemes "starting" after 1 July 2014. This budget covers all measures included in the schemes, thus including measures not envisaged by this study, and covers the total period of the scheme (sometimes up to 2020). The expenditures in column B are however those registered up to 31 December 2016. About 14% of the planned budget had been disbursed by the end of 2016 by the different schemes.

Actual expenditures in favour of the measures within the evaluation scope (% C/A) represent on average 11-13%, with however some major differences in Finland, Estonia and Germany (5% or less of the planned budget spent). However, this is only illustrative.

3.2.3.2 Use of aid categories

Agricultural State aid is provided using different categories of aid, of which the most used are direct grants, subsidised services, and interest rate subsidies (see Annex 3 Table 5). Aid schemes block-exempted or notified by the 8 CS MS during the examination period used a mixture of aid categories, mainly combining grants and interest subsidies (109 of 217 aid schemes, mainly in Italy, Spain and Germany). An equally large number of aid schemes (45) did exclusively provide direct grant or subsidised services.

However, expenditures in favour of the measures under review are primarily provided as direct grants (57%), the majority being concentrated in Spain and Italy under the "insurance premiums" measure (see Annex 3 Table 6).

Aid schemes offering a combination of aid categories (direct grants and interest rate subsidies) represent 21% of the expenditures reported for the selected MS, covering mainly adverse climatic events (France), animal diseases and plant pests (France, Germany, Poland) and insurance premiums (the Czech Republic). Subsidised services, treated as a unique aid category, account for 15%. This category was favoured for animal diseases and plant pests (Germany), fallen stock (Finland, Germany and Poland) and insurance premiums (Poland and Spain).

One aid scheme in Poland[51], relating to compensation for damage caused by adverse climatic events, used a combination of less common instruments such as debt write-off, reduction of social security contributions and tax advantage or tax exemption.

3.2.3.3 Beneficiaries

Data on beneficiaries in the 8 CS MS are derived from the Commission's TAM database[52]. It gives access to individual State aid award data provided by MS in compliance with the European transparency requirements for State aid from September 2016 onwards. Data is only provided by five out of the eight MS selected; Poland, Italy and Spain chose not to publish on the Commission's TAM database during the examination period. Individual national websites have been consulted to complement the information[53]. Publication on beneficiaries is only required for amounts exceeding €60 000 for those active in the primary agricultural production and €500 000 for other beneficiaries (Art. 9.2 ABER). This explains the limited information available on beneficiaries for measures within the scope and timeframe of the current evaluation study.

Public databases offer limited information on schemes falling within the evaluation's scope at the level of the eight CS MS. **For only for 31 schemes out of 217 (~14%) is information on beneficiaries provided**: three in the Czech Republic; one each in Estonia and Finland; two in France; five in Germany; 15 in Poland and four in Spain. The information on beneficiaries presented in Table 16 has therefore a more illustrative and exemplifying than analytical character.

Table 16: Number of aid schemes for which information about beneficiaries is available on Transparency website (number)

MS	# of aid schemes in the scope	...for which expenditures are reported in Transparency website
Czech Republic	15	3
Estonia	9	1
Finland	6	1
France	16	2
Germany	48	5
Italy	63	No reporting in TAM
Poland	16	15*
Spain	44	4
TOTAL	217	12

Source: ADE, based on Commission database TAM; for Poland; * *no information on expenditure reported for aid schemes in Poland;* for Spain.

Beneficiaries of aid provided by these aid schemes are mainly SMEs (244 against only five large enterprises), the most important number being registered for animal diseases and plant pests (120), mainly from implementation of an aid scheme in France (87). Large enterprises benefitted from aid in France (animal diseases and plant pests), the Czech Republic, Poland and Germany (prevention and restoration of forests from damage) (see Table 17).

[51] SA.43001, Aid scheme for farmers and agricultural producers who suffered damage to farms and special sectors of agricultural production due to the drought in 2015.

[52] https://webgate.ec.europa.eu/competition/transparency/public?lang=en.

[53] Polish transparency website: https://srpp.minrol.gov.pl/ and Spanish website: http://www.pap.minhafp.gob.es/bdnstrans/GE/es/index. The Italian website https://www.sian.it/GestioneTrasparenza/ has also been consulted but did not provide information on beneficiaries for schemes during the examination period.

Table 17: Number of SMEs and large enterprises having benefitted from support from aid schemes falling within the evaluation scope (8 CS MS)

MS	Adverse climatic events; Prev.& rest. of damages to forests		Animal diseases & plant pests		Fallen stock	Insurance premiums	Prev.& rest. of damages to forests	Invest. non-Annex I	TOTAL		
	SME	Large entrepr.	SME	Large enterpr.	SME	SME	Large enterprise	SME	SME	Large enterprise	ALL
Czech Republic			2			34	1		36	1	37
Estonia			9						9		9
Finland								1	1		1
France			87	1					87	1	88
Germany	2		12				1	4	18	1	19
Italy											
Poland	5	1	5		2	1	1		13	2	15
Spain			5		68*	68*		7	80		80
TOTAL	7	1	120	1	70	103	3	12	244	5	249

Source: ADE, based on Commission database TAM; for Poland; for Spain; 68 SMEs in Spain benefiting from SA under both Fallen stock and Insurance premiums measures

The expenditure indicated in the TAM database shows that total aid of €39.7 million was provided to those 154 enterprises (see Table 18). The main part is dedicated to SMEs (€37 million; 93%), especially in France under the animal diseases and plant pests measure (€25 million, 63%).

Table 18: Expenditures registered in favour of SMEs and large enterprises by aid scheme falling falling within the evaluation's scope (8 CS MS) (€ million)

MS	Adverse climatic events; Prev.& rest. of damages to forests	Animal diseases & plant pests		Insurance premiums	Prev.& rest. of damages to forests	Invest. non-Annex I	TOTAL		
	SME	SME	Large enterprise	SME	Large enterprise	SME	SME	Large enterprise	ALL
Czech Republic		0.3		3.3	0.9		3.6	0.9	4.4
Estonia		2.5					2.5		2.5
Finland						0.6	0.6		0.6
France		25.0	0.1				25.0	0.1	25.1
Germany	0.2	1.3			1.8	3.8	5.4	1.8	7.2
TOTAL	0.2	29.1	0.1	3.3	2.7	4.4	37.0	2.7	39.7

Source: ADE, based on Commission database TAM

EVALUATIVE PART

4. METHODOLOGY

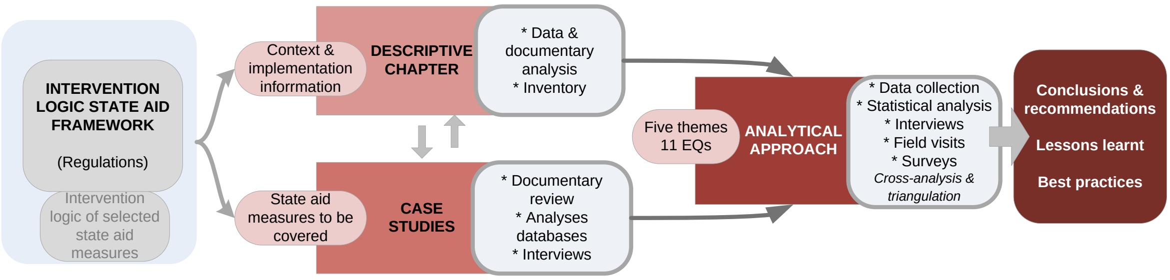
4.1 Overall approach

The overall approach to this evaluation study is based on the Better Regulation guidance and toolbox[54], and takes into account the specificities of State aid evaluation outlined by the common methodology for State aid evaluation[55].

The evaluation framework was established starting with the reconstruction of the **intervention logic** of the agricultural SA framework and the development of the judgement criteria and indicators on which the evaluation is primarily based. This was followed by the development of a comprehensive **descriptive part**, which includes an overview of the agricultural SA framework (regulations and rules) as well as the implementation of agricultural State aid by measure, aid scheme and expenditure (EU-28 and in more detail in selected MS).

Case studies were undertaken in eight MS. They cover an in-depth analysis of all aid measures with specific analysis of supported aid schemes through intervention case studies. The case studies include specific literature reviews and analyses of the framework of the respective public policies covered by the measures. Meetings were organised with the numerous competent authorities involved at national and, for some MS, regional level. Beneficiaries or their representatives and competitors (where relevant and possible) were also contacted through telephone interviews.

Figure 5: Overall approach to the evaluation



Source: ADE

Evaluation Questions (EQs) have been answered based on (i) the data collected for the intervention logic and the descriptive part; (ii) all quantitative and qualitative data collected in the CS MS (literature review, interviews, analysis of interventions), (iii) **interviews** at EU level; and (iv) the **online survey** among EU-28 State aid officials. On the basis of the answers, conclusions and recommendations have been formulated.

4.2 Intervention logic of the agricultural State aid framework

The ABER and the agricultural GL form the legal framework of the evaluation. They are to be seen within the broader context defined by the horizontal SA regulations, the SAM initiative, and the RDR. Furthermore, while not falling within the evaluation scope, the agricultural *de minimis* is to be considered a different instrument for national aid defined by the agricultural SA framework.

The expected results of these 2014-2020 agricultural SA instruments are the following:

- The 2014-2020 ABER and agricultural GL seek coherence and alignment of their rules with the RDR (and the horizontal State aid rules), related to the conditions, scope, eligible costs and aid intensities (ABER recitals 4-6; agricultural GL §5, 21).

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54 SWD(2015) 111 final.
55 SWD(2014) 179 final.

- The scope of ABER – which has been extended compared to the previous Regulation – should result in a reduced administrative burden, both for the MS and for the Commission Services (ABER recital 8). The integration of damage caused by protected animals in the agricultural GL as well as certain RD measures falling outside the scope of Art. 42 of the Treaty (forestry measures, non-Annex I measures), is also contributing to simplification (GL §(21)).
- State aid rules are expected to provide MS with legal certainty (predictability, transparency) allowing public interventions to respond to needs through the increased guidance offered by the regulations and individual measures (definitions clarified, alignment with other rules, etc.).

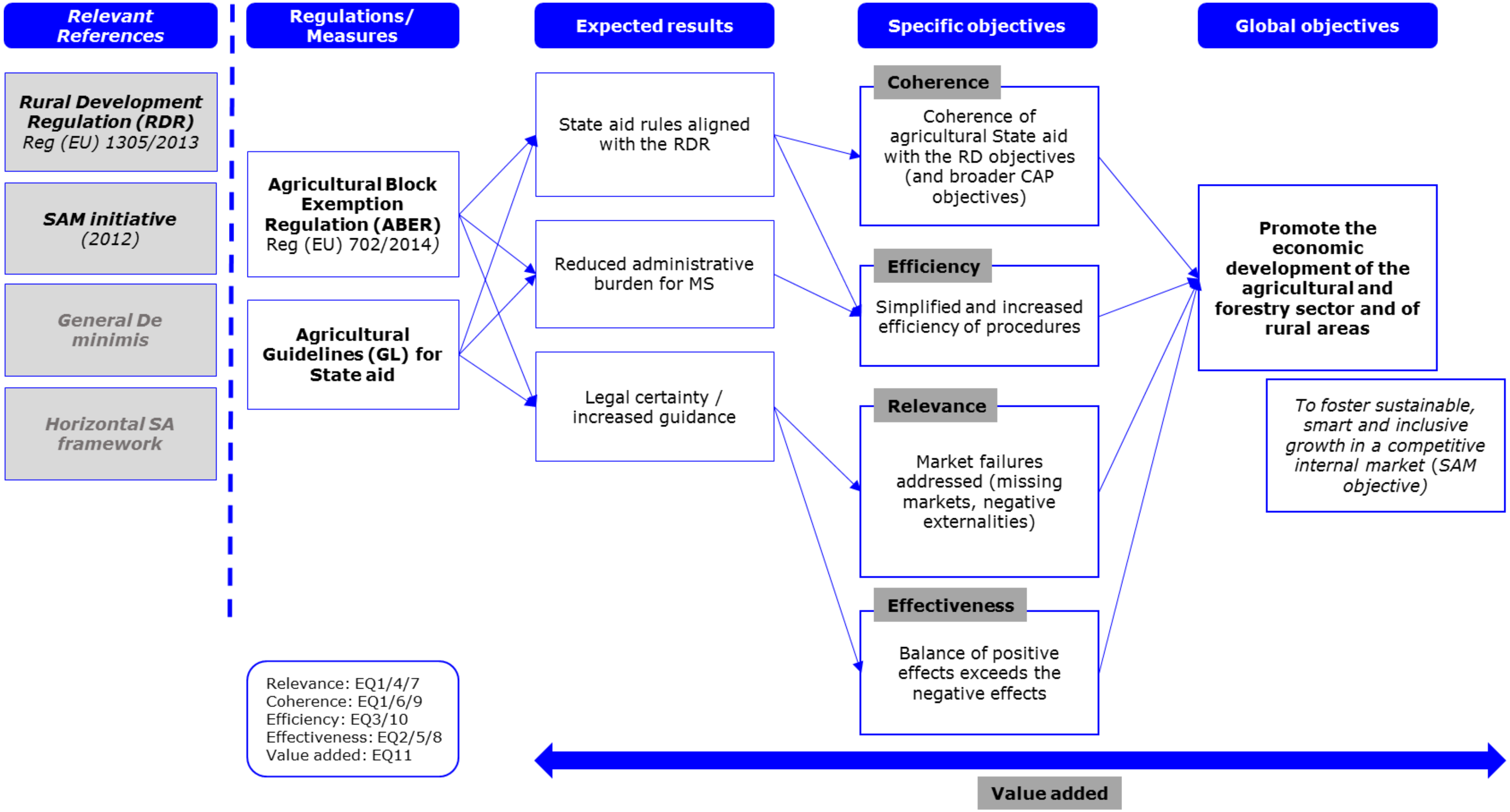
The four specific objectives are the following:

- Through the alignment of rules with the RDR, a coherent approach to reaching the RD objectives and thus the CAP objectives is expected, independently of the financing sources (EU-financing, co-financing or pure State aid).
- Furthermore, the increased alignment of the SA instruments with the RDR and the reduced administrative burden is expected to contribute to the objective of simplified and increased efficiency of procedures.
- State aid rules offer a legal framework allowing public interventions responding to real needs, that is bringing about an improvement that the market cannot deliver on its own. Hence State aid is expected – with respect to the legal framework - to address market failures and thus contributing to the efficient functioning of markets and enhancing competitiveness (agricultural GL §(54)).
- State aid rules are expected to ensure that distortions in competition and trade within the internal market of such public support are limited. Article 107(3)(c) of the Treaty stipulates that the Commission may consider to be compatible with the internal market "*aid to facilitate the development of certain economic activities or of certain economic areas where such aid does not adversely affect trading conditions to an extent contrary to the common interest*". Therefore, the balance of positive effects should exceed the negative effects.

Finally, the State aid rules in the agriculture and forestry sectors and in rural areas are considered to promote the economic development of the agricultural and forestry sectors and rural areas in a way that is in principle consistent and coherent with the CAP rules and policies.

Indeed the importance of the economic development in the agricultural and forestry sectors and in rural areas has been reiterated in the Commission's Communication on the CAP towards 2020: "*Agriculture is an integral part of the European economy and society. In terms of indirect effects, any significant cut back in European farming activity would in turn generate losses in GDP and jobs in linked economic sectors […]. Rural activities […] would also be affected. Depopulation in rural areas would probably accelerate. There would therefore be important environmental and social consequences.*"

Figure 6: Intervention logic of the agricultural State aid framework 2014-2020



Source: ADE, based on legal instruments

4.3 Information sources and tools

The following information sources and tools were used for the evaluation study:

Table 19: Information sources and tools used

Information sources	Tools
Data from DG COMP	Analysis of aid schemes and expenditures
Regulations, evaluations, other	Documentary and literature review (regulations and bibliography)
Eurostat[56] and national statistics on the agricultural and forestry sector	Review of RDPs
RDP and 2016 AIR	Case studies in 8 MS (include literature review, RDP review, interviews with competent authorities, managing authorities, beneficiaries and/or their representatives, competitors, all based on interview guidelines, intervention case studies with a counterfactual scenario)
Interviews with competent authorities, managing authorities, beneficiaries and/or their representatives, competitors, EC services	Intervention case studies with counterfactual scenario
FADN (regional/national)	Online survey
Other accounting data from national sources and application forms	

Source: ADE

The different information sources have been used to support quantitative and qualitative analysis feeding into the answer to each EQ (structured according to Judgement Criteria). The information from those different sources has been triangulated, ensuring that the answers to the EQs are based on solid and cross-checked evidence (see Table 20).

Table 20: Tools used for each EQ

	EQ1	2	3	4	5	6	7	8	9	10	11
Data from DG COMP	√	√		√	√		√	√		√	
Documentary and literature review	√	√		√			√				
RDP (+AIR) review				√			√				
Case studies (documentary review, interviews, focus groups, questionnaire)	√	√	√	√	√	√	√	√	√	√	√
Intervention case studies, including interviews with beneficiaries and/or representatives and counterfactual scenario	√	√		√	√		√	√			
Online survey			√			√			√	√	√

Source: ADE

Data from DG COMP

The main source of information on the use of State aid was the **State aid cases database** from DG COMP[57]. The information was cross-checked and completed with the **2017 State aid scoreboard**[58], which includes aid expenditure made by MS before 31 December 2016 falling under the scope of Art. 107(1) TFEU. The data are based on the annual reporting by MS in SARI pursuant to Art. 6(1) of Commission Regulation (EC) No. 794/2004. In order to delineate the relevant temporal and thematic study scope, several selection criteria have been applied to the data sources to identify the aid schemes relevant to the evaluation (see Table 21).

Table 21: Selection criteria for aid schemes within the evaluation scope

Scoping	Criteria applied
Temporal scope	The study covers the period 1 July 2014 - 31 December 2016. Aid schemes were selected as falling within the temporal scope if: (i) the EC decision date is between 1 July 2014 and 31 December 2016 for notified schemes; or (ii) the registration date is between 1 July 2014 and 31 December 2016 for block-exempted schemes.
Thematic scope	Aid schemes cover one or more aid measures. A scheme has been included in the thematic scope if it covers at least one of the eight specific aid measures. In total, 29 aid schemes cover more than one measure subject of this evaluation study. When counting the number of aid schemes at the level of each aid measure under review, these schemes are counted as many times as the relevant aid measures are included.

Source: ADE

56 Eurostat as well as the statistical publication on agriculture and forests (edition 2017).
57 The State aid cases database is publicly available and includes all State aid cases subject of a Commission decision since 1 January 2000; it also provides information on block-exempted cases (extraction of 12/02/2018) http://ec.europa.eu/competition/elojade/isef/index.cfm?clear=1&policy_area_id=3
58 Source: http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html (29/01/2018)

Farm Accountancy Data Network (FADN) and national bookkeeping data

FADN data at regional or national level (see Annex 4 for a description) was used to assess the direct effects of State aid on the economic performance of undertakings confronted with adverse events (EQ2). This approach allows comparison of the economic results of an undertaking with and without compensation measures (counterfactual scenario). In some aid schemes the evaluator relied on other sources of farmers' accounting.

Documentary and literature review

A comprehensive documentary review was conducted covering numerous regulations, the State aid modernisation initiative, policy briefs and roadmaps. Relevant legislative, policy or guidance documents, studies and evaluations were considered for the different subjects of the evaluation. They included among other things the Study on risk management in the EU agriculture, the mid-term evaluation of Regulation (EU) No 652/2014, the Evaluation study of the forestry measures under Rural Development, and the Special Report of the European Court of Auditors "Is EU support for prevention and restoring damage to forests caused by fire and natural disasters well managed?". Specific studies were reviewed on agricultural insurance in Spain and Poland.

Review of Rural Development Programmes (RDPs)

83 RDPs corresponding to the eight CS MS were reviewed in detail, providing information on the forestry measures and the investments related to non-Annex I products. Chapter 13 of the RDP provided elements on SA clearance. The RDP sets the objectives of the RD measures of the MS or region, useful for the reconstructing of the intervention logic of aid schemes under EQ5 and EQ8. The 2016 annual implementation reports (AIR) were also consulted, providing additional information on the RD expenditures for the relevant measures. This information has been cross-checked with information from the State aid database.

Online survey

Between end-May and mid-July 2018 an online survey was conducted among national authorities in charge of State aid at the level of EU-28 identified by DG AGRI. 27 MS responded to the questionnaire (N=27), the response rate being 96% (see Annex 4).

Country case studies

Eight MS were selected for the conduct of an in-depth case study, taking into account the following criteria: (i) geographic distribution at EU level, with representation of the four climatic areas[59]; (ii) coverage of the specific State aid measures within a MS or region (at the same time the non-mobilisation of certain measures was also an interesting source of information); and (iii) different administrative contexts (i.e. centralized or decentralized management of public support for agriculture, forestry and processing). Based on the aforementioned, the following MS were selected: the Czech Republic, Estonia, Finland, France, Germany, Italy, Poland and Spain.

Case studies were based on desk work and in-depth interviews and meetings with different stakeholders (competent authorities at national and regional levels, RDP managing authorities, representatives of beneficiaries, and in some MS beneficiaries and competitors). A State aid authority within each MS was provided by DG AGRI. Each of the aid measures within the evaluation's scope relate to a specific technical competence. It involves different policy levels in ministries, different ministries and, particularly in decentralised MS, different management levels (national, regional) . This process required time as confidence had to be built and a large number of people had to be interviewed in multiple rounds. Information was collected on the use of the SA instruments and actual expenditures. Precise information was collected on the use of the SA instruments (agricultural or others) and the actual expenditures related to the specific aid measures. Finally, they also served to collect the views of the competent authorities with regard to the relevance and coherence of the State aid rules, their efficiency, value added and the administrative burden related to them. Case

[59] DG AGRI (2008), Fact Sheet, Climate Change : the challenges for agriculture.

studies provided a deeper understanding of the implementation of agricultural State aid, and fed directly into the different EQs.

Intervention case studies – counterfactual scenario

A number of interventions were selected for a more in-depth analysis with regard to the relevance and effectiveness of the aid provided. These intervention case studies provided as much information as possible on the support in response to a given event. A number of interventions were selected for more in-depth analysis with regard to the relevance and effectiveness of the aid provided. These intervention case studies provided as much information as possible on the support provided in response to a given event (or in support of a given investment) and the beneficiaries.

In order to conduct the intervention case studies, the evaluator adopted the following approach:

- **Reconstruction of the intervention logic** of each State aid measure in order to identify the expected direct effects of each measure on the beneficiaries and the expected indirect effects.
- Assessment of the **direct effects** using a counterfactual scenario. The direct economic effects of an aid measure on a beneficiary was assessed on the basis of a simulation of the economic situation of a beneficiary with and without support. The objective of the simulation was to assess the significance of the support, defined in terms of support relative to the net income. In some cases support can make the difference between continued operations and bankruptcy, while in other cases it would shorten the period needed for return to profitability. In addition to the assessment of the economic effects on the beneficiaries, the incentive effect was appreciated through interviews with competent authorities and with beneficiaries or their representatives.
- Assessment of the possible **indirect effects** on public policy based on a qualitative analysis of the contribution of the public policy to the CAP objectives or other EU policy objectives.
- Assessment of the effects on **competition**, mainly based on two elements: an analysis of the characteristics of the aid and of its capacity to have a significant effect on trade and competition, *viz.*:
    - Do all enterprises have access to the aid?
    - Does the aid influence production volumes? For instance, aid compensating for losses has no effect on production.
    - Does the amount of aid (total and share in gross income or operating accounts) provide a comparative advantage to the beneficiary *vis-à-vis* non-beneficiaries? This is illustrated in the case studies.
    - For investment measures (Themes 2 and 3), in addition to the foregoing, consideration of aid intensity; competitors were interviewed in this regard.
- This analysis was completed with the point of view of the authorities on the effects of their State aid on trade and competition and the effects of aid provided by other MS.
- Assessment of the aid's effects **on trade**: the evolution of trade was considered when available and relevant; for compensatory measures, the support compensates for losses in order to recover a situation prior to the event. Regarding agricultural risk management, data were available for two major animal diseases.
- The **effects on trade and competition were not measured quantitatively,** for different reasons. Trade trends depend on many factors and the causal link cannot be established. The measures affect too few producers to have a significant impact on trade. Third, as regards the effect on competition of the compensatory measures, it was not possible to identify comparable competitors (i.e. experiencing the same adverse impact yet not receiving State aid) in order to compare both situations in terms of trade.

Table 22 summarises the interventions for which an in-depth review related to their effectiveness has been conducted. For investment in non-Annex I activities, no data on trade of the specific sub-products or niche markets were publicly available. The effects were discussed qualitatively.

Table 22: Use of accounting data by intervention case study

Measure	Country	Specific intervention	Source of accounting data	Level of the area studied
Adverse climatic events	France	Severe drought of 2015	INOSYS Breeding Network	Regional (Limousin region)
	Poland	Severe drought of 2015	FADN public database	Regional (Mazowsze i Podlasie)
Animal diseases and plant pests	Estonia	Outbreak of African swine fever in 2015	Literature review	National
	France	H5N1 epidemic outbreak of 2015	FADN public database	Regional (Aquitaine and Pays de la Loire)
Fallen stock	Germany	Fallen stock	FADN public database, Ministry of Food and Agriculture	Regional (Lower Saxony)
	Finland	Fallen stock	FADN public database	National
Protected animals	Finland	Protected animals	FADN public database	National
Insurance premiums	Poland, Spain	/	Literature review	National
Prevention and restoration of forests from damages	France	Prevention against forest fires	Regional ASA	Aquitaine region
	Germany	Prevention of plant pests	/	Bavaria region
	Finland	Prevention of root rot	National database 'LUKE'	National
Forestry investments	Germany	Soil friendly harvesting	Cost price data from public enterprises	Baden Württemberg
Non-Annex I	Germany	Increased automation and diversification	Accounting data from undertakings and competitors	Baden Württemberg

Source: ADE

4.4 Limitations

One of the main challenges of the evaluation was linked in particular to data availability due to (i) the short examination period (this was partly overcome by considering the reference period when support was sufficiently similar); and (ii) the way in which aid schemes are registered in DG COMP databases (they may include several measures and thus pursue multiple objectives) making the monitoring of the use and implementation of individual aid measures challenging. Furthermore, 2014-2020 RDP expenditures for projects linked to the three aid measures were low and not completely reflected in the data reported by MS (in the DG COMP scoreboard). Here again the reference period was used when relevant, and expenditures after 2016 for non-Annex I investments were considered. For forestry investment few expenditures were registered and the evaluator was only able to obtain detailed data for Germany.

Publicly available data on beneficiaries were used but they were limited as data on individual aid is published only if it is of larger size (€60 000 for primary agricultural production and €500 000 for forestry and non-Annex I). The online survey was addressed only to national SA authorities; for forestry and non-Annex I activities the views of RDP managing authorities were collected only through case studies.

Another limitation is the absence of a control group to assess the effectiveness of the rules. For compensatory measures support is provided to all undertakings within a MS affected by an event and MS provided similar support for adverse events. In this context the situation of an undertaking affected by an adverse event but which was not compensated could not be identified. A counterfactual scenario was therefore developed. This approach was also adopted for investment measures.

The assessment of the effects on trade and competition was only carried out qualitatively, which is limiting. But it does not affect the conclusion on the balance of the positive and negative effects of those measures. Indeed, the potential impact of risk management measures (agricultural and forestry) is very limited by the specificity of the compensation measure and the types of beneficiaries which are mostly micro, small and medium-sized enterprises (SME).

5. THEME 1: AID FOR UNDERTAKINGS ACTIVE IN THE PRIMARY PRODUCTION OF AGRICULTURAL PRODUCTS

Theme 1 focuses on five State aid measures providing aid to farmers and in the broader sense to "undertakings active in the primary agricultural production", as defined in Section 3. These risk management measures include four compensatory measures and support for insurance premiums.

Theme 1 includes three EQs related to the relevance and coherence of State aid rules with regard to risk and crisis management in the agricultural sector (EQ1); the effectiveness of those rules with regard to the effect on competition and trade within the internal market (EQ2); and the efficiency of the rules with regard to the procedure for obtaining SA clearance (EQ3). The following sections provide the answer to each of the EQs covered by theme 1.

5.1 To what extent are the rules for the aid relevant and coherent with regard to risk and crisis management in the agricultural sector? (EQ1)

5.1.1 Approach

Rationale and coverage. This EQ has two sub-questions: (i) does the scope of the aid cover the real needs of the agricultural sector and are the eligible costs relevant and coherent; and (ii) does the aid for animal diseases and plant pests and for fallen stock take into account the relevant aspects of the veterinary and public health policy at EU and national levels?

The scope of the aid is defined by the events covered by each of the risk management measures. They address different risks and associated damage. The real needs of the agricultural sector relate to the justification for State aid for each of the aid measures. Which risks and market failures do these measures seek to address? What would have happened if no public support was provided? The analysis of the use of State aid measures by the MS also permits an assessment of their appropriateness with regard to the real needs of the sector.

A specific issue relates to the coherence of aid for animal diseases and plant pests and for fallen stock with national and European veterinary and public health policy. Indeed, there are additional relevant European policies outside the domain of the CAP. In particular we refer to Regulation (EU) No 652/2014[60] concerning the management of expenditure relating both to the food chain, animal health and animal welfare, and to plant health and plant reproductive material, and to Regulation (EC) No 1069/2009[61] laying down the public and animal health rules for animal by-products and derived products. Fallen stock is a part of this larger group of by-products. A more detailed presentation of both regulations is available in Annex 5.

Judgement criteria.

- JC.1 The scope of the aid measures envisaged for addressing risk and crisis management cover the real needs of the agricultural sector.
- JC.2 Conditions, eligible costs and aid intensity are adequate to cover damage and losses (potential or actually incurred).
- JC.3 The agricultural SA framework and relevant State aid measures are aligned with RDR rules (relevant for insurance premiums).

[60] 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. This Regulation has amended the Community Animal Health Policy (CAHP) and the Community Plant Health Regime (CPHR).

[61] Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation).

- JC.4 Aid measures related to animal diseases and plant pests as well as to fallen stock take into account the relevant aspects of the veterinary and public health policy at EU and national levels.

Methodology. The methodology for answering the EQ is based on a qualitative and quantitative analysis. It includes (i) an analysis at EU level, to provide a global picture of the State aid support to risk management; (ii) an analysis at the level of the competent authorities (through case studies and the online survey) focusing on an in-depth understanding of the implementation of the rules in the various MS; and (iii) the point of view of the beneficiaries or their representatives on the adequacy of its scope to cover the real needs.

The reconstruction of the intervention logic of each aid measure highlights the rationale of State aid for the adverse event and thus the market failure addressed. The statistical analysis of the use of agricultural SA framework 2014-2020 during the examination period (taking into account the reference period) explores the extent to which measures adequately match the risks.

In the case studies the documentary review of the various State aid measures is complemented with feedback from the competent authorities providing insights into the rationale of the selection of State aid measures in line with the related policy framework. The relevance of the measures in addressing the needs is also discussed with beneficiaries or their representatives.

Concerning aid for the payment of insurance premiums, evidence of the alignment with the overarching RDR objectives is based on a documentary review (comparison of the scope, the beneficiaries and the conditions). This analysis is complemented with the views of the competent authorities collected *via* the country case studies and the online survey.

The sub-question as to whether the eligible costs are relevant to coverage of the damage or losses (potential or actually incurred) is based on a documentary analysis and on discussions with competent authorities and some representatives of beneficiaries.

Assessing the coherence of the measures related to animal diseases, plant pests and fallen stock with the overall veterinary and public aid policy is be based on a documentary analysis of the respective Regulations and the State aid rules. In particular, specific aid schemes formed the basis for in-depth discussions with competent authorities and beneficiaries on the scope, eligible costs and conditions.

5.1.2 Summary answer

EQ1: To what extent are the rules relevant and coherent with regard to risk and crisis management in the agricultural sector?
In particular, **Does the scope of the aid cover the real needs of the agricultural sector and are the eligible costs relevant and coherent?; *and*** **Does the aid for animal diseases and plant pests and for fallen stock take into account the relevant aspects of the veterinary and public health policy at EU and national level?**
State aid measures are used to cover several risks actually faced by farms addressing a category of market failures which are negative externalities arising in the absence of public support. Compensatory aid measures not only aim to have a direct effect on the economic situation of the undertakings affected by an adverse event, but also to avoid negative impact on related public policy objectives. They are specific for each measure. State aid provided in relation to adverse climatic events associated with natural disasters contributes to the viability of the agricultural holdings. The support relates to major financial difficulties generated by the event and allows farmers to take action. It is linked to the CAP objectives to promote viable food production and balanced territorial development. The aim of the measure related to animal diseases and plant pests is to prevent the spread of the disease or pest and the decline of affected sub-sectors, and to ensure public and animal health. The purpose of the disposal of the fallen stock is to avoid the potential negative effects related to the mismanagement of dead animals. The compensation provided for losses or damage caused by protected animals aims at supporting the co-existence of livestock farmers and protected animals and thus contributes to the wider CAP objectives of promoting biodiversity. Finally, support related to the payment of insurance premiums has the objective of favouring the emergence of an insurance market for the agricultural producers that would not exist in the absence of public support. Indeed, even if the European agricultural insurance market is highly diverse in

terms of products and implementation from one MS to another, it appears that overall the agricultural insurance market is developing when there is public support.

The relevance of State aid measures with regard to the real needs of the agricultural sector is confirmed. The large number of block-exempted or notified aid schemes is a first indicator confirming this; interviews with some beneficiaries and their representatives held within the context of the intervention case studies confirm the point. In terms of expenditure, support measures related to animal diseases, adverse climatic events and insurance premiums were the most important.

The analysis also raised the complementarity between support for insurance premiums and the other compensatory risk management measures. MS developing an agricultural insurance market often limit the compensatory measures to non-insurable risks.

Interviews with competent authorities showed that the conditions and rules are adequate to meet the needs. This finding was confirmed by the online survey. Nevertheless, MS underlined some difficulties related to the conditions set forward by the respective State aid rules, in particular those related to animal diseases and plant pests (scope, beneficiaries) and protected animals.

For animal and plant diseases, the following points were mentioned:

- List of eligible diseases limited to the World Organisation for Animal Health list and the list of the Annexes 1 et 2 of Regulation (EU) No 652/2014 does not allow provision of State aid for emerging diseases;
- Conditions: compensation to make good damage incurred during the phase of mere suspicion of a disease is subject to formal recognition of the disease, even later on. If the disease is not recognised, damage incurred during mere suspicion is not compensated. This limits the incentive for farmers to declare suspicious cases at an early stage. This condition reflects the WTO green box criteria, which do not allow provision of compensation at the stage of mere suspicion.
- Eligible costs: (i) losses related to potential quarantine pests go beyond what can be compensated under the ABER or GL rules; (ii) multiannual losses are not compensated for; and (iii) MS can not use animal or plant products that must be destroyed but could still be consumed
- Beneficiaries: (i) limited access by undertakings in difficulties for aid related to the costs of the eradication of animal diseases despite the need having been expressed that preventative measures are indispensable to limiting the spread of a disease; (ii) the necessity for opening ABER to upstream and downstream undertakings (not active in the primary production of agricultural products) given that processors and traders are also affected and may claim compensation from the producers; (iii) access limited to SMEs in ABER considering the compensatory aspect of the aid to cover all undertakings, regardless of their size.

For losses caused by protected animals, the major point raised concerns the condition of having taken reasonable preventative measures. This poses problems as relevant measures are sometimes perceived as disproportionate to the risk of suffering damage. Also, the need to have a direct causal link between the damage suffered and the behaviour of the protected animal proves to be difficult. Furthermore, eligible costs are considered to be a constraint: the market value of the animal killed does not appropriately cover the cost of the damage, particularly in the case of ewes kept for milk production.

The agricultural SA framework for insurance premiums differs from that of the RDR. Support to insurance premiums is covered by the RDR (Art. 37). However, differences are observed between the conditions set out by the agricultural SA instruments and RDR, the latter being stricter (30% losses and formal recognition). This difference has influenced the decision of MS to use ABER rather than RDR for insurance support (Spain).

Case studies confirm the coherence of State aid measures with the relevant national and European health policies. However, the link between "pure State aid" and interventions co-financed by the EU in the framework of Regulation (EU) No 652/2014 varies from one MS to another (relevant for animal diseases and plant pests). In some MS State aid is used in co-financed EU programmes to cover costs of activities which are not foreseen in the scope of Regulation (EU) No 652/2014, such as restocking. In other MS State aid is involved in activities outside an EU co-financed programme but which are still coherent with Regulation (EU) No 652/2014 (for example for vaccination campaigns at regional level in Spain). Furthermore, the health policy at national level (through the use of State aid) is aligned with EU health policy defined by Regulation (EC) No 1069/2009 relating to rules for animal-by-products, of which fallen stock is a part.

5.1.3 Analysis

Aid related to adverse climatic events which can be assimilated to a natural disaster

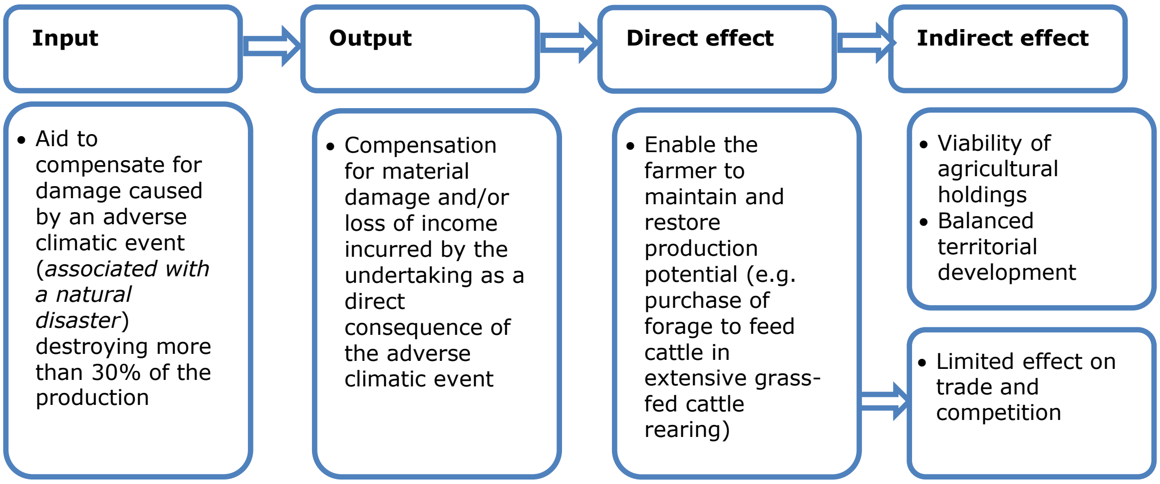
JC.1 The scope of the aid measures envisaged for addressing risk and crisis management covers the real needs of the agricultural sector.

I.1.1 Aid measures cover specific risks facing the agricultural sector and address market failures.

As described in the descriptive part (section 2.1), hail, heavy precipitation and drought are the main European adverse climatic events identified in literature. These events correspond to the adverse climatic events defined by the agricultural SA framework.

Adverse climatic events associated with a natural disaster are an exceptional shock due to its occurrence and its extent, insofar as it is defined by a loss of 30% of average production (see Glossary). This shock can threaten the viability of the holdings affected and, in the absence of support, can cause negative effects (negative externalities) on the economic development of the whole agricultural sector concerned and corresponding rural areas. Hence compensation paid to farmers is in line with the overall CAP objectives of contributing to the viability of agricultural holdings and balanced territorial development. Support is in response to financial difficulties caused by the event and allows farmers to take action. Figure 7 presents the intervention logic of this measure, summarising the direct and indirect effects of the aid measure.

Figure 7: Intervention logic for compensation related to adverse climatic events



Source: ADE

To respond to the damage caused by these adverse climatic events, a large majority of MS provide support for managing the risk from such events, either by compensating for damage or by supporting insurance schemes through agricultural SA instruments (see JC.2).

I.1.2 State aid measures are used by MS and meet the need at the level of the MS and the beneficiary.

The number of MS providing aid to remedy adverse climatic events, the amount of State aid paid, and the number of beneficiaries together indicates that this aid measure meets a need widely shared across Europe. The large majority of EU MS set up a public policy framework to address these events. It is complemented by public or private insurance, which differs between the EU MS.

During the examination period14 MS block-exempted or notified an aid scheme related to adverse climatic events. However the number of MS using public support is greater.

According to the online survey, **all MS except Denmark, Finland[62] and Sweden provide public support** either through direct compensation (new aid schemes or still ongoing 2007-2013 schemes) or through the insurance premiums (previous and current framework). This observation is confirmed when looking at the 2007-2013 expenditures by the EU-28 in response to adverse climatic events (see Table 23, right column).

Table 23: Number of aid schemes and State aid expenditures for adverse climatic events (07/2014-12/2016), with 2007-2013 reference period

MS	07/2014-12/2016*					2007-2013
	Number		Expenditures (€ million)			Expenditures (€ million)
	GL	ABER	GL	ABER	Total	Total
Austria		1		51.00	51.00	2.50
Belgium		1		7.43	7.43	22.40
Bulgaria	1		5.85		5.85	19.30
Croatia		1			-	-
Cyprus	2		5.96		5.96	68.20
Czech Republic	1				-	0.40
Denmark						
Estonia	De minimis					
Finland						16.30
France		1		172.77	172.77	934.30
Germany	1				-	16.20
Greece	2				-	991.10
Hungary	1				-	91.10
Ireland						4.00
Italy		7		69.62	69.62	414.80
Latvia						0.60
Lithuania						43.90
Luxembourg						10.30
Malta						-
Netherlands						14.80
Poland	1	5		127.01	127.01	189.40
Portugal						117.70
Romania	1		66.51		66.51	0.70
Slovakia						3.90
Slovenia						12.80
Spain		4		1.96	1.96	225.00
Sweden						
United Kingdom						1.00
TOTAL 8 CS MS	**3**	**17**	**-**	**371.36**	**371.36**	**1780.20**
TOTAL EU-28	**10**	**20**	**78.32**	**429.78**	**508.10**	**3200.70**

*Only aid schemes registered or notified during the period, and expenditures made by those aid schemes.
Source: ADE, based on data from DG COMP; reference period from CEIGRAM

France and Spain use compensation measures and insurance support (see I.1.3). Others, like Estonia, provide support via the *de minimis* (therefore not present in Table 23). Five MS declare that this type of support is covered by the private sector for the period 2014-2020. Three of these MS are in northern regions (Estonia, Finland[63], and Sweden). The other two are the Netherlands and the United Kingdom (up to 2016 less exposed to drought).

Not only are aid measures provided for in the majority of MS, but they are also widely used. Expenditures for aid related to adverse climatic events registered during the examination period amount to €508.1 million. They are concentrated in France, Poland and Italy. Expenditures registered during the reference period amounted to €3.2 billion.

[62] The Finnish authorities who supported these damages (2007-2013) did not seek to notify agricultural State aid for adverse climatic events in the period 2014-2016 for policy reasons; they opted to support and promote the private insurance market.
[63] Finland currently envisages State aid for Southern Finland due to the severe drought of spring and summer 2018.

Regarding beneficiaries, their number is large but the average amount of support per individual beneficiary is rather low (see Annex 7). For example, severe drought has been the main adverse climatic event in France (both in 2015 and 2016) for which aid has been provided *via* a block-exempted national aid scheme. It also covered rain in 2015, floods in 2015 and 2016 (catastrophic events) and frost in 2016. In total, approximately 37 500 beneficiaries received support through this aid scheme in 2016, and around 3 000 in 2015.

Disbursements in **Italy** (national aid scheme SA.42104) have been mainly made to compensate damage from heavy rain, and to a smaller extent severe drought in 2016. In total, approximately 17 000 beneficiaries received support *via* this aid scheme. Besides the national State aid, regions can also intervene with their own resources. This has been the case for Lombardy, Sardinia and Sicily, which have registered aid schemes providing compensation for specific adverse climatic events (such as the heavy rains in 2013 or hail in 2015 in Sardinia).

Beneficiaries interviewed within the context of the intervention case studies (Poland, France) confirmed that the aid measure responds to an important need for a farm confronted with an adverse climatic event associated with a natural disaster. The French intervention case study focused on a period of severe drought which had caused an absence of grass in the meadows. The farmers' representative underlined that the severe droughts put the farms in difficulties, especially those with an extensive farming system based on cattle grazing. The farmers' representative underlined the importance of the aid measure for addressing the purchase of forage not produced on the farm. In this context aid is considered very important. As part of the intervention case study conducted in Poland following the 2015 drought, farmers surveyed stated that they lacked public support for their farms in serious financial difficulties.

I.1.3 State aid measures have been used in complementarity with the MS public policy framework regarding the agricultural insurance market.

The current agricultural SA instruments state explicitly that the "aid granted must be reduced by 50% unless it is given to beneficiaries who have taken out insurance […][64]". Indeed, **in MS developing an agricultural insurance market, compensation for adverse climatic events has been implemented in complementarity with agricultural insurance.** Therefore, in these MS the intervention scope of aid for adverse climatic events has been limited to so-called **"non-insurable risks"** (i.e. risks for which there is no existing insurance).

The **Spanish** insurance system is well-developed with public support (see section 2.1.3.5). It notably covers damage caused by adverse climatic events which can be associated with natural disasters. Therefore, public support via the aid scheme covering aid for adverse climatic events is paid only for those losses which are not insurable or which can only be covered by insurance when meeting certain criteria. Thanks to the development of the agricultural insurance sector in Spain, non-insurable risks are very limited. In fact, the budget allocation for State aid aid schemes covering adverse climatic events amounts to €19 million compared to €1.9 billion budgeted for support for insurance premiums (covering all types of risks) for the period 2014-2020.

In order to further develop its insurance system, **France** has also limited its support against adverse climate events to non-insurable risks. Climate risks to crops and viticulture are covered by the insurance sector since 2010 and 2011 respectively.

In late 2014 **Italy** registered a national ABER aid scheme (SA.42104) covering both support against adverse climatic events and support for insurance premiums. As in Spain and France, State aid in this scheme covers damage caused by adverse climatic events only on an exceptional basis and is complementary to the growing insurance market supported by State aid up to end-2016 and then by RDP.

JC.2 Conditions, eligible costs and aid intensity are adequate to cover damage and losses (potential or actually incurred).

64 Agricultural GL, Part II, S.1.2.1.2, (363); ABER Article 25.9.

Although the number of aid schemes and the use of this measure indicate that its rules respond to real needs in many MS, the adequacy of certain conditions was raised during discussions with the competent authorities.

The first element is the complexity involved and the amount of information needed to recognize an event as associated with a natural disaster, which is considered complex and cumbersome (Poland, Germany). Furthermore, **Germany** raised the point of distinction between natural disasters and adverse climatic events. The events are similar, but the impact of an adverse event might be higher than that of a natural disaster. For beneficiaries, this distinction is not understandable and not transparent since it is the damage that matters, not the event that took place (hurricane *versus* storm, heavy and continuous rainfall *versus* flood). Beneficiaries also questioned the difference in aid intensity (aid intensity for a natural disaster (100%) and an event comparable to a natural disaster with a rate limited to 80%).

France does not face this difficulty given that it applies – within the same aid scheme – the strict conditions of ABER Art. 25 to all events (regardless of whether they are considered natural disasters or adverse climatic events). This implies that an undertaking can benefit from support if the level of losses reaches 30% applying the same aid intensity regardless of the classification of the event causing the damage.

Finally, the requirement to have a loss calculation per farm is also considered complex to implement by **Poland** and **Latvia** and led **Estonia** to use the *de minimis*.

Findings from the **online survey** confirmed this point of view. The specific conditions and rules set out by the respective agricultural State aid regulations were considered appropriate to meet the needs (see Annex 8). In fact five out of seven respondents considered the eligible costs as a constraint; however, they managed to adapt the design of the aid scheme to comply with the ABER conditions.

In France, in the case of the intervention following the severe drought in Limousin, as mentioned above the farmers' representatives considered the support as important. Polish authorities consider that the amount granted is too small compared to the loss suffered. In fact, losses related to agricultural production used as own fodder and the related decrease in animal production were not counted when determining the scale of the losses. Moreover, the assessment of losses was conducted late which affected the functioning of farms.

Aid related to animal diseases and plant pests

JC.1 The scope of the aid measures envisaged for addressing risk and crisis management cover the real needs of the agricultural sector.

I.1.1 Aid measures cover specific risks facing the agricultural sector and address market failures.

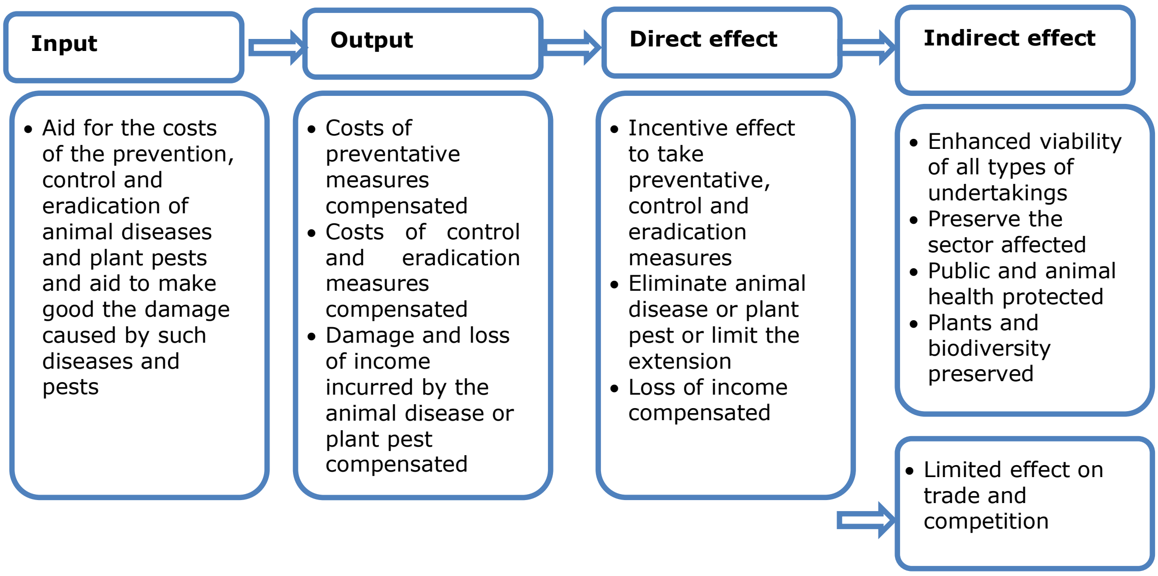
Over the period 2005-2015, the average number of outbreaks of epizootic livestock diseases was about 13 000 per year with large variation between years[65]. The situation varies between EU MS (see section 3.1.1). Factors contributing to the likelihood of occurrence and size of outbreak are the type and intensity of livestock production in the region and whether the region is bordering areas outside the EU with a different animal health status and experiencing regular outbreaks.

Epidemic (epizootic) infectious livestock diseases and epidemic plant diseases mark not only the undertakings directly affected. They also threaten other actors in the value chain with potentially significant negative effects (negative externalities) which can cross borders and impact on other MS. Negative effects may be of a sanitary or economic nature. Public interventions compensating for losses suffered by farmers affected directly or indirectly by the measures taken to limit the development of the epidemic (for example quarantine measures) are justified to enable undertakings to overcome the crisis and to circumscribe the epidemic and prevent its further spread.

[65] Idem, p.84-90.

Figure 8 presents the intervention logic for the aid related to animal diseases and plant pests.

Figure 8: Intervention logic for aid related to animal diseases and plant pests



Source: ADE

I.1.2 State aid measures are used by MS and meet the needs at the level of the MS and the beneficiary.

Nearly all EU MS provide public support cleared by the agricultural SA instruments to offset losses from epidemic infectious livestock diseases and to a lesser extent from plant pests. More specifically, 20 MS introduced 167 aid schemes during the examination period (see Table 30). MS mainly used the agricultural block exemption (158 block-exempted aid schemes against eight notifications). Notified aid schemes mainly extend the scope to undertakings not covered by the block exemption, such as the large enterprises (the Czech Republic) and companies indirectly affected (France). Austria and Cyprus also declared[66] provision of support *via* the agricultural *de minimis*.

Greece and Portugal did not register or notify any State aid under either the current or previous agricultural SA frameworks. However, the competent authorities of both MS reported *via* the online survey the use of pure State aid for this type of support which suggests that they used the *de minimis*, even though *de minimis* aid is not State aid.

The amount of total expenditures in favour of support related to animal diseases and plant pests is the highest among the aid measures covered by this evaluation study (see Table 24). For the period 07/2014-12/2016, a total of €720.68 million was registered. The UK (€293.24 million corresponding to a total of 23 aid schemes), Germany (€86.77 million for 26 aid schemes) and France have disbursed the most via the new aid schemes (€72.54 million for 6 aid schemes). Over 90% of the expenditures cover provisions to fight animal diseases (prevention and compensation for damage).

[66] Source : online survey.

Table 24: Number of aid schemes and State aid expenditures for animal diseases and plant pests (07/2014-12/2016), with 2007-2013 reference period

MS	07/2014-12/2016*					2007-2013
	Number		Expenditures (€ million)			Expenditures (€ million)
	GL	ABER	GL	ABER	Total	Total
Austria		2		0.97	0.97	28.80
Belgium		1		0.01	0.01	163.20
Bulgaria		4		14.77	14.77	2.00
Croatia						
Cyprus		15		2.17	2.17	15.50
Czech Republic	1	4	3.80	0.63	4.43	131.70
Denmark		1		0.02	0.02	61.00
Estonia	2	3	0.27	2.79	3.06	4.90
Finland		2		0.70	0.70	10.50
France	1	5	20.00	52.54	72.54	396.70
Germany	2	30	10.52	76.25	86.77	557.90
Greece						
Hungary		6		58.40	58.40	112.20
Ireland		6			-	206.90
Italy	1	16	0.29	45.87	46.16	232.60
Latvia						2.40
Lithuania		3		0.41	0.41	2.20
Luxembourg						3.30
Malta						
Netherlands	1	3	64.73	0.32	65.06	195.40
Poland		5		43.65	43.65	395.40
Portugal						
Romania						30.50
Slovakia		2		0.98	0.98	8.70
Slovenia						62.70
Spain		23		4.28	4.28	283.90
Sweden		2		23.07	23.07	112.50
United Kingdom		26		293.24	293.24	1241.60
TOTAL 8 CS MS	7	88	34.88	226.72	261.59	2013.60
TOTAL EU-28	8	159	99.61	621.08	720.68	4262.50

*Only aid schemes registered or notified during the period, and expenditures made by those aid schemes.
Data for Croatia and Malta not found.
Source: ADE, based on data from DG COMP; reference period from CEIGRAM

The review of aid schemes within the 8 CS MS confirmed that State aid was provided in relation to different epidemic infectious livestock diseases (and to a much lesser extent to plant pests[67]). The most typical diseases over the period under review are avian influenza and ASF, as is illustrated by the **intervention case studies in France and Estonia**:

- In late 2015 the French poultry sector (and in particular "foie gras" production in south western **France**) was severely hit by the **H5N1 epidemic** (avian influenza). The French authorities provided support *via* the block-exempted aid scheme (SA.40671), registered in January 2015 (before the H5N1 outbreak). Moreover, on an exceptional basis aid was also provided to undertakings in the downstream sectors (notified aid scheme SA.46994).
- Over the period 07/2014-12/2016 **Estonia** introduced five aid schemes for support in respect of animal diseases and plant pests. Four are related to provisions for compensation of damage caused by **ASF**[68]. State aid addresses both SMEs (via two block-exempted aid schemes) and large enterprises (*via* two notified aid schemes) with budgets of €30 million and €20 million respectively. Expenditures have been registered respectively in favour of 12 SMEs (SA.42902) and two SMEs (SA.45614) (average

[67] In Estonia, one case has the objective the make good the damage caused by plant pests, especially potato ring rot and fire blight. Few insurance is available in the plant production sector (SA.47100).

[68] SA.42894 ; SA.45613 ; SA.42902 ; and SA.45614.

amount per beneficiary: €189 000 and €261 500 respectively) and one large undertaking (€268 000).

In **Germany** all measures relate to the objective of the German Animal Health Act (Bundesregierung 2013), which defines the framework for the prevention and abatement of animal diseases in the agricultural sector. According to §9 of the Animal Health Act, the objective of the act is "disease-free livestock production" within the national territory. The federal and national governments set the State aid in accordance with this objective. In total, there are 30 block-exemptions and two notifications. They apply the animal disease act to all regions. They also cover different diseases in the regions. Aid schemes notably covered different highly pathogenic diseases, such as avian influenza, bluetongue and FMD but also bovine herpesvirus type 1 and salmonellosis. Although there are differences in specific rules (reimbursement, who provides public funds etc.), the implemented measures for farmers are strictly obligatory and the legal basis does not allow a flexible decision.

Annex 9 provides a more detailed table on the type of events covered by the aid schemes under review in the CS MS.

Beneficiaries interviewed during the intervention case studies confirm the importance of the support which not only allows undertakings to recover their activity following the impact of the disease or pest, but also to facilitate the acceptance of biosecurity measures. Beneficiaries mostly expect direct support to cover expenses related to control measures and application of stricter biosafety rules, for example for building extra fences, using extra disinfectants and so forth. This was particularly expressed by **French** farmers' representatives, who highlighted the need to encourage farmers to accept biosecurity measures despite the impact of those measures on farming practices.

In **Estonia** the aid received to eradicate ASF and to make good the damage caused by the disease was considered by the interviewed beneficiaries as very substantial and supportive of the recovery of the pig production sector; it covered the direct costs.

In **Poland** farmers stated that State aid related to animal diseases covers all diseases that are problematic for farmers but that it does not cover all the costs related to prevention of the spread of diseases. As an example, the farmers complain about the regulations related to ASF prevention. In farmers' opinions the biosafety features that farmers have to implement lead to implementation of breeding systems without bedding which is costly.

I.1.3 State aid measures have been used in complementarity with the MS public policy framework regarding the agricultural insurance market.

In some MS support for animal diseases and plant pests is used complementarily with support for insurance premiums. In **Spain** many animal diseases and plant pests are covered by the subsidised private insurance system. The system covers animal diseases mainly related to poultry, swine, cattle, sheep and goats. It covers both epizootic diseases[69] and diseases subject to official eradication programmes[70]. Moreover, these insurance policies pay a disease compensation for slaughtered animals and the related immobilization. This immobilization indemnity is paid per animal and per week. The indemnity for slaughtered animals is paid in addition to the compensation co-financed by the government and the EU. It is calculated by subtracting the compensation and the salvage value of the animal from an established "market value". An insured farmer should, in theory, receive the full market value of the animal.

Italy has also linked the support related to animal disease and plant pests to the public supported private insurance market; that is, support will only be granted if the compensation is not covered by the insurance market ("non-insurable risk"). Changes in the policy are also evident. For example, Lombardy has a block-exempted aid scheme covering mainly prevention measures. However, the aid is no longer provided *via* this scheme given that the region included prevention measures in its regional RDP 2014-2020.

In **Finland**, on the contrary, following the recommendations of a risk management working group (established by the Ministry of Agriculture and Forestry in 2013), it is assumed that the market is too small for the development of commercial insurance to cover the costs of

[69] Avian influenza, Newcastle, foot and mouth and classical swine fever.
[70] Salmonella, Aujeszky, tuberculosis, brucellosis, leukosis, pleuropneumonia and BSE.

operators affected by pests. Therefore the Finnish authorities have introduced an aid scheme targeting plant pests (SA.39920).

JC.2 Conditions, eligible costs and aid intensity are adequate to cover damage and losses (potential or actually incurred).

While the scope of the SA framework to a large extent covers the real needs of the agricultural sector, MS have underlined some difficulties related to the conditions set forward by the relevant State aid rules. They are the following:

- The scope of the agricultural State aid related to animal diseases is limited to the diseases referred to in the list of eligible diseases established by the World Organisation for Animal Health or the animal diseases and zoonoses listed in Annexes I and II of Regulation (EU) No 652/2014. While the aforementioned and frequently occurring epizootic livestock diseases are part of this list, some MS (Estonia, France, and Italy) underlined that this closed list does not allow addressing of the aid schemes for emerging diseases.
- The conditions and eligible costs defined by the agricultural SA instruments to compensate for the damage caused do not facilitate the early detection necessary to stop the spread of the disease or pest. Farmers should be encouraged to report any suspicious case as soon as possible. Furthermore, the need to formally recognise the disease or presence of plant pests as a prior condition means that compensation of damages incurred during the phase of mere suspicion of disease cannot be guaranteed because it depends on whether the event is in the end formally recognised (the Czech Republic). In fact, damage could incur already during the "suspicion phase". Quick reaction is important to limit the spread of the diseases, and thus of their consequences for the farm and (potentially) the sector. The condition of formally recognising a disease by the competent authorities reflects the WTO green box criteria, which do not allow provision of compensation in the phase of mere suspicion.
- Losses related to a potential quarantine pest are going beyond what can be compensated under the ABER or agricultural GL. (Finland). Apart from compensating the costs of eradication (allowed under ABER and under Finnish legislation, if costs are high enough) and the loss of the value of plants destroyed (allowed under ABER but not under Finnish legislation), there are additional costs ("Neither are damages caused by the pest itself eligible for compensation, nor are costs and damages due to restrictions on marketing, import or export of goods"). These must be borne by an operator but cannot be compensated, and this may undermine the willingness of operators to report early on suspicious cases.
- MS cannot use animal or plant products that must be destroyed but could still be consumed (e.g. apples in France or potatoes for feed in Estonia).

With regards to the beneficiaries, the following constraint has been identified:

- Undertakings in difficulties can, exceptionally, benefit from aid related to the costs of the eradication of animal diseases provided *via* a block-exempted aid scheme (ABER Art. 1(6)a). However, the Estonian competent authorities believe that such undertakings should also be eligible for aid for preventative measures which are essential to limiting the spread of a disease and should therefore also be accessible to those undertakings.

Results from the online survey (see Annex 8) confirm the above-mentioned constraints, in particular related to their scope and beneficiaries.

JC.3 The agricultural SA framework and relevant State aid measures are aligned with RDR rules.

Not applicable.

JC.4 Aid measures related to animal diseases and plant pests take into account the relevant aspects of the veterinary and public health policy at EU and national levels.

Implementation of State aid measures forms part of national policy, which itself forms part of the European policy on animal and plant health. Each MS develops its own programme regarding the prevention, control and eradication of animal diseases and plant pests. Part of this programme can be co-financed by the EU in the framework of Regulation (EU) No 652/2014.

The objective of State aid related to animal diseases and plant pests – to protect human and animal health, to ensure biodiversity (see intervention logic Figure 8) **– is coherent with the aforementioned objectives of Regulation (EU) No 652/2014.** Indeed, Art. 2 of this Regulation stipulates that "*Union law has the general objective of contributing to a high level of health for humans, animals and plants along the food chain and in related areas, by preventing and eradicating diseases and pests and by ensuring a high level of protection for consumers and the environment, while enhancing the competitiveness of the Union food and feed industry and favouring the creation of jobs*". Among its specific objectives, it aims "*to contribute to a high level of safety of food and food production systems and of other products which may affect the safety of food, while improving the sustainability of food production*" and "*to contribute to the timely detection of pests and their eradication where those pests have entered the Union*".

Results from the online survey show that 14 MS provide support to beneficiaries within the framework of Regulation (EU) No 652/2014. Interviews with competent authorities in the country case studies confirmed that State aid interventions are aligned with the overall approach to prevention, control and eradication of animal diseases and plant pests.

The link between "pure State aid" and interventions co-financed by the EU in the framework of Regulation (EU) No 652/2014 varies between MS. Each MS has a programme for prevention, control and eradication of animal diseases and plant pests. Part of this programme is financed by the EU through the above-mentioned Regulation. The measures included in the programme which do not benefit from EU financing are funded through State aid. In some cases State aid is used in a programme for covering costs not taken into account in the programme co-financed by the EU. In other cases State aid is involved in programmes not funded by the EU.

For example **Spain** has developed a national programme containing measures to control or eradicate diseases or pests, including preventative and *ex post* compensation, which can benefit from EU funding. Emergency measures against plant pests and measures for the eradication of organisms harmful to plant or plant products are also eligible for EU co-financing. The measures included in the national programmes (*ex ante* measures), which do not benefit from EU co-financing, are funded through State aid and are usually financed by regional governments. For these measures the aid is registered through ABER. This is the case, for example, for expenses incurred in the compulsory vaccination programmes against bluetongue and salmonella which receive support in some autonomous regions. Pure State aid (without EU co-financing) is also used when costs are not eligible under Regulation (EU) No 652/2014, such as the national framework for supporting the purchase of animals for restocking of infected holdings following destocking.

Aid for fallen stock

JC.1 The scope of the aid measures envisaged for addressing risk and crisis management cover the real needs of the agricultural sector.

I.1.1 Aid measures cover specific risks facing the agricultural sector and address market failures.

Livestock producers are in the business of producing marketable meat products. However, every livestock producer must face the reality of dead livestock. If not disposed of properly, such fallen stock (see glossary) forms a source of risks to public and animal health and the environment (pollution of soil, air and ground water, for example when buried or burned). Therefore if livestock dies on a farm (including stillborn animals and afterbirth), Art. 13 of Regulation (EU) No 1069/2009[71] stipulates that the fallen stock must be collected, identified and transported from the farm as soon as reasonably practical by an approved transporter. It should not be burned or buried on the farm[72], or fed to birds that feed on carcasses.

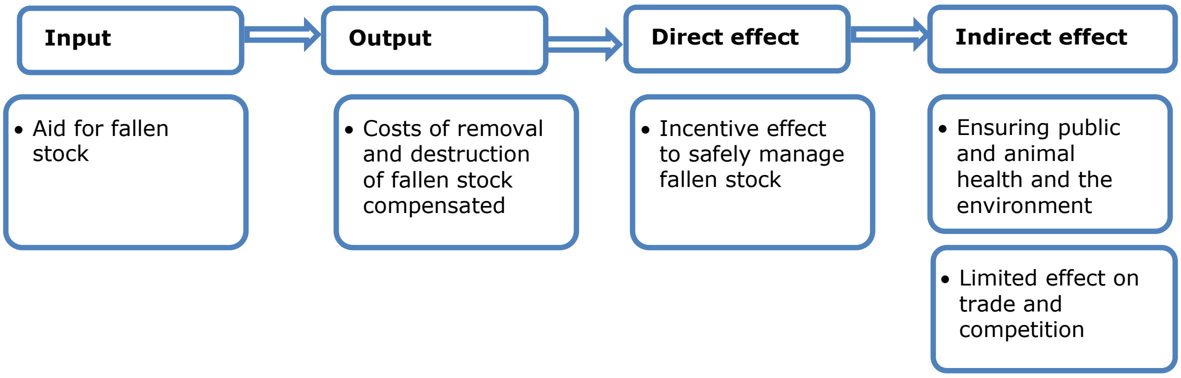
[71] Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation).

[72] The burial ban was introduced in all EU MS in 2003. It was done to protect the health of human and animals as well as to safeguard the environment. Improper burial can cause pollution especially to groundwater due to gas and leachate production. This can increase the risk of transmission of disease to man, animals, birds, and insects.

Hence, **not dealing correctly with fallen stock by a farmer may harm others by increasing exposure to health and environmental risks (negative externalities).**

Aid for fallen stock provides direct support to the service provider, and indirectly to the farmer (by having access to a subsidised service). As such, **the aid creates the incentive to dispose of dead animals in a correct manner by paying for the service and contributes thereby to maintain public and animal health and the environment**.

Figure 9: Intervention logic for support for fallen stock



Source: ADE

I.1.2 State aid measures are used by MS and meet the need at the level of the MS and the beneficiary.

Public support in the management of fallen stock is widespread in the various MS. According to the survey results, six MS (France, Romania, Slovakia, Luxembourg, the Netherlands and Greece) do not have public support for fallen stock because the private market handles this. In **France,** for example, since 2009 the State has no longer handled the financing of the disposal of fallen stock, entrusting to the industries the task of organizing and financing this need. The contribution is paid upstream by the livestock farmers, which represents 17% of the funding, the downstream contribution collected by the slaughterers representing the balance of 83%.

The **Czech Republic** did not implement this aid measure during the period under review; it was covered *via* support for animal diseases. A specific aid scheme related to fallen stock was used in the past, but it appeared that, when farmers are reimbursed for dead animals only, they did not have the motivation to report the suspicious diseases early (because the compensation was targeted on the dead animals). Currently farmers are aware that they will not be reimbursed for fallen stock if the diseases are not reported early enough. Also, when they are sure that they will be compensated for already dead animals and also for those which have to be slaughtered to prevent disease spreading, they are more motivated to report the diseases, even when in doubt.

During the examination period, Bulgaria and Germany each notified an aid scheme covering aid for fallen stock (see Table 25). Overall, 33 block-exempted aid schemes were implemented by 14 MS. In Germany and Italy, some block-exempted schemes cover both aid measures related to animal diseases and to fallen stock. Other schemes in Italy and in Spain simultaneously cover fallen stock and support for insurance premiums.

Expenditures from aid schemes from the examination period supporting fallen stock amount to €141.46 million and can be mainly found in Poland and Germany, followed by Spain, Belgium and Finland with various set-ups.

In **Poland** farmers can recover the amounts associated with the cost of disposal. A total of 223 532 beneficiaries received support in 2015 and 2016, corresponding to an average of €231 per beneficiary.

Germany is managing this type of support only at the level of the Federal States. Hence very different situations exist among the regions, ranging from 100% to zero support. In many regions a compulsory contribution is levied from farmers. However, only three Federal States (North Rhine-Westphalia, Rhineland Palatinate and Schleswig-Holstein) have made use of the State aid for fallen stock.

In **Finland**, the authorities have contracted with a single provider to collect and dispose of all fallen stock. Producers are compensated for the costs of collection and destruction, with the subsidy paid directly to the provider of the service who then invoices the farmer for the balance. The subsidy is equivalent to a reduction of 50% of the cost of the service averaged across all animal species.

Table 25: Number of aid schemes and State aid expenditures for fallen stock (07/2014-12/2016)

MS	07/2014-12/2016*				
	Number		Expenditures (€ million)		
	GL	ABER	GL	ABER	Total
Austria		1		0.04	0.04
Belgium		2		18.60	18.60
Bulgaria	1	1			-
Croatia					
Cyprus		1		3.24	3.24
Czech Republic					
Denmark					
Estonia		2		0.70	0.70
Finland		1		10.08	10.08
France					
Germany	1	6	0.02	21.33	21.35
Greece					
Hungary					
Ireland		2		11.63	11.63
Italy		9		4.33	4.33
Latvia		1		2.02	2.02
Lithuania		1		5.53	5.53
Luxembourg					
Malta					
Netherlands					
Poland		2		51.58	51.58
Portugal					
Romania					
Slovakia					
Slovenia					
Spain		3		11.79	11.79
Sweden		1		0.58	0.58
United Kingdom					
TOTAL 8 CS MS	1	23	0.02	99.80	99.82
TOTAL EU-28	2	33	0.02	141.44	141.46

*Only aid schemes registered or notified during the period, and expenditures made by those schemes.
Source: ADE, based on data from DG COMP

I.1.3 State aid measures have been used in complementarity with the MS public policy framework regarding the agricultural insurance market.

In some MS developing agricultural insurance, aid for fallen stock is included in the private insurance schemes.

In **Spain**, there is no specific aid to compensate for the removal and destruction of fallen stock as this measure is included in the insurance system. It is a "provision of services" insurance, which offers the possibility of guaranteeing reimbursement of the cost of removal and destruction of animals that have died on the farm from accidental causes. In line with public health conditions established in the legislation, the subsidy provided by the State is established as a fixed amount per animal head. The service is provided by animal by-product treatment firms. Firms contracted through a tender procedure managed by regional governments are obliged to offer the service for the whole territory for which they have won the tender. The insurance is in place in all regions with the exception of the Basque country, where this service is provided by the regional administration at no cost to the farmers.

Italy is implementing this type of support *via* the insurance premium at national level. Depending on respective budget availabilities, regions may add State aid to complement the support. In this respect, expenditures related to fallen stock are being registered for Lombardy, Bolzano-Bozen and Trento.

JC.2 Conditions, eligible costs and aid intensity are adequate to cover damage and losses (potential or actually incurred).

Interviews with the competent authorities in the different case study MS did not reveal any particular difficulties related to the appropriateness of eligible costs and aid intensities. For example, in Estonia the scope and conditions to cover the needs are considered suitable, as well as aid intensity (at a rate of up to 100% of the costs of the removal of fallen stock and 75% of the costs of the destruction of fallen stock). In Finland the amount of aid remains below the planned ceilings with an intensity varying from 40% to 60% depending on the species. In general, compliance with the legislation is found to be very high under the monitoring programme, so the aid is considered by the authorities to be effective in meeting its objective. German authorities underlined however that the condition of granting the aid to the firm for carcass disposal introduces additional administrative complexity, given that the farmer pays part of the costs of disposal (but is not the direct beneficiary of the aid).

Survey results related to the appropriateness of the conditions for the aid confirm the adequacy of the eligible costs and aid intensities (see Annex 8).

JC.3 The agricultural SA framework and relevant State aid measures are aligned with RDR rules.

Not applicable.

JC.4 Aid measures related to fallen stock take into account the relevant aspects of the veterinary and public health policy at EU and national levels.

The health policy at national level (through the use of State aid) is aligned with EU health policy defined by Regulation (EC) No 1069/2009. This Regulation lays down the public and animal health rules for animal by-products and derived products, in order to prevent and minimise risks to public and animal health arising from those products, and in particular to protect the safety of the food and feed chain (Art. 1). Fallen stock is a part of this larger group of by-products.

In **Estonia** animal by-products and derived products are handled in accordance with the requirements of the Infectious Animal Disease Control Act which is based on Regulation (EU) No 1069/2009. The competent authority for the issues related to fallen stock and Regulation (EU) No 1069/2009 is the Veterinary and Food Board.

The **German** Animal By-product Disposal Act (2004) is the main regulation for fallen stock at the national level, together with Regulation (EC) No 1069/2009. The objective of the Animal By-Product Disposal Act is to put farmers in a position in which hiding or self-disposal is not necessary and where there is no economic incentive, for example, to bury or burn dead animals.

With respect to disposal of fallen stock, **Finland** is divided into two parts: the remote area and the collection area. An animal that has died in the collection area, as well as the by-products of home slaughter, must be taken for carcass collection. Their burial is permitted in remote areas (confined to districts in northern Finland where animal densities are very low). Burial must not pose a risk to human or animal health.

Aid to compensate for the damage caused by protected animals

JC.1 The scope of the aid measures envisaged for addressing risk and crisis management covers the needs of the agricultural sector.

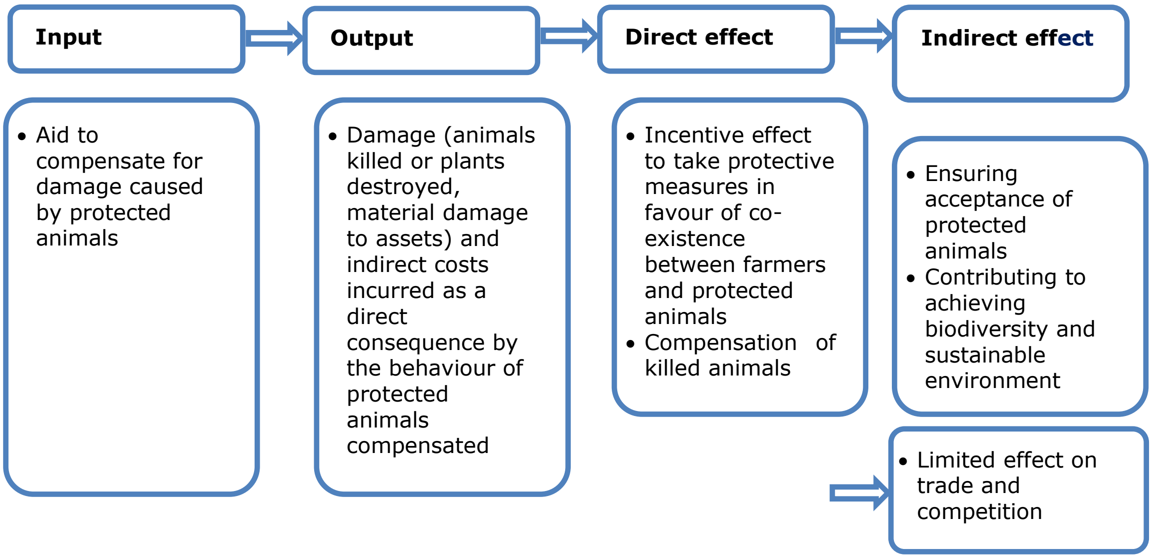
I.1.1 Aid measures cover specific risks facing the agricultural sector and address market failures.

The preservation of biodiversity is an important and long-standing EU policy. The Habitats Directive (92/43/EEC) and the Birds Directive (79/409/EEC) provide the legal basis for the protection of wild fauna and flora populations. In particular the former considers over 700 species as "strictly protected"; that is, they may be neither disturbed nor captured, killed or traded; over 560 species are in need of protection (i.e. they may be hunted)[73].

Conflicts between protected animals and farming activities are numerous and depend on the species concerned[74]. In particular, damage caused by large carnivores is the most controversial. Over the past few years, large carnivores have been recovering in number and returning to the regions from where they had long disappeared, mainly thanks to the new strict protection regulations. Over the period 2012-2016 there are an estimated 1 000-1 250 wolverines[75], 8 000–9 000 Eurasian lynxes , 15 000-16 000 brown bears and 17 000 wolves present in continental Europe (excluding Russia and Belarus). Individuals of at least one large carnivore species have been registered in all European countries except Luxemburg during the last six years[76].

Livestock farming is the agricultural activity most beset by conflicts. The types of livestock most prone to attacks from large carnivores are sheep and goats. These two species are attacked by all large carnivores without exception. Compensation for damage is intended to ensure that the (livestock) farmers confronted with damage caused by protected animals do not suffer any economic loss (see Figure 10). Given the conditionality of the measure (contribution from the beneficiaries), the aid measure encourages farm protection measures. Indirectly the aim of the aid is to persuade farmers to accept the return of large carnivores, and protected animals in general, and thus contribute to the objectives of maintaining biodiversity (or negative externalities in the absence of aid).

Figure 10: Intervention logic for compensation related to damage caused by protected animals



Source: ADE

[73] BFN, Federal Agency for Nature Conservation ; https://www.bfn.de/en/activities/species-conservation/species-conservation-legislation-and-conventions/bern-convention.html.

[74] P Jaeger, Conflicts between wildlife and agriculture. High level Pan-European Conference on Agriculture and biodiversity, 2002

[75] The most illustrative is the wolf, present in many MS. In 1992, the EU Habitats Directive classified the wolf as a species in need of a high level of protection. On the verge of extinction in Europe, grey wolves have reappeared through a prohibition to hunt (except in case of attack or under a very strict quota system). In some parts of Europe, however (Scandinavia, the French and Italian Alps, and the forests between Poland and Germany), the species is still considered vulnerable.

[76] European Parliament. Research for AGRI Committee – The revival of wolves and other large predators and its impact on farmers and their livelihood in rural regions of Europe. August 2018. http://www.europarl.europa.eu/RegData/etudes/STUD/2018/617488/IPOL_STU(2018)617488_EN.pdf

I.1.2 State aid measures are used by MS and meet the need at the level of the MS and the beneficiary.

Aid for damage caused by protected animals was included for the first time in the 2014-2020 agricultural GL. Previously MS had to rely on the Treaty if they wanted to provide public support. During the examination period, **only six out of 28 MS have notified a case covering compensation for damage caused by protected animals** (see Table 26). **Very few expenditures have been registered in these notified aid schemes** - in total, €4.95 million for nine aid schemes. In Spain, the compensation for such damage provided through the insurance system is around €4.5 million/year (0.9% of total indemnities). Based on the information retrieved from the country case studies (Finland, Germany and Italy), the estimated average amount paid is €1 000 per occurrence.

Table 26: Number of aid schemes and State aid expenditures for damage caused by protected animals (07/2014-12/2016)

MS	Number	Expenditures (€ million)
	GL	GL
Austria	1	-
Finland	1	1.46
Germany	2	0.46
Italy	3	0.94
Lithuania	1	0.38
Sweden	1	1.70
TOTAL 8 CS MS	6	2.87
TOTAL EU-28	9	4.95

Source: ADE, based on data from DG COMP

Based on the survey results, **18 out of 28 MS are providing public support to cover this need,** either on the basis of the agricultural GL (aid schemes introduced after 2016) or based on the *de minimis* (among others, Estonia, the Czech Republic, Latvia and Portugal). **Spain** has integrated this type of support in its agricultural insurance system, while some autonomous regions are also providing public support on the basis of the *de minimis*. **France** is preparing a case under this measure; RDP is supporting prevention measures. Moreover, 33% of respondents consider that this need should be covered by the private sector. Therefore no public support is provided.

Meetings with the competent authorities in the context of country case studies have highlighted the very sensitive nature of the damage caused by carnivores in several MS (Germany, France, Estonia and the Czech Republic). The debates are lively and relate to the possibility of slaughter, the amount of compensation deemed sufficient, and the taking into account of preventative measures. Competent authorities mentioned that the discussions with the farmers' representatives to offer State aid in line with the European framework are difficult.

JC.2 Eligible costs and aid intensity are adequate to cover damage and losses (potential or actually incurred).

The survey results confirm that the conditions set forward by the agricultural GL meet the needs, as also highlighted by the competent authorities interviewed within the context of the country case studies.

Nevertheless some particular difficulties relating to the implementation of this measure have been observed and are the subject of discussions with the potential beneficiaries. They concern the following points:

- The agricultural GL lay out the conditions for a contribution from the beneficiaries in the form of reasonable preventative measures. This condition is perceived as problematic by farmers. Preventative measures are quite expensive, in particular the installation of electric safety fences, paying a shepherd or buying a livestock guard dog. The cost of preventative measures can be covered by the RDP or by Section 1.1.1.1 of Part II of the agricultural GL.
- Establishment of the direct causal link between the damage suffered and the behaviour of the protected animal is difficult.

- Eligible costs are considered a constraint. The market value of the animal killed does not appropriately cover the cost of the damage. In particular, in the case of dairy ewes the market value rests mainly on the meat value of an animal. However, when losing dairy ewes the farmer is also losing milk production capacity, the cheese produced, and so forth. In France the Livestock Institute is currently establishing a grid with indicative market values for dairy ewes.
- The reason for having different aid intensities between direct (100%) and indirect (80%) costs is not clear to the MS.

Results from the online survey (see Annex 8) confirm the above-mentioned constraints.

JC.3 The agricultural SA framework and relevant State aid measures are aligned with RDR rules.

The agricultural SA framework contributes to achieving the objectives of the EU Habitats Directive and the overarching EU objectives regarding biodiversity.

State aid for the compensation of damage caused by protected animals is in line with the objectives of the CAP, and more specifically the objectives of Regulation (EU) No 1305/2013. It is also in line with RD Priority 4 "*restoring, preserving and enhancing ecosystems related to agriculture and forestry*", with a focus on Natura 2000 areas and areas facing natural or other specific constraints, and high nature value farming, as well as the state of the European landscape.

Several RD measures can be used to improve coexistence between protected animals and agricultural producers. A recent study[77] has explored the potential for using RDP funds to improve this coexistence. But in any case damage caused by protected animals is not covered and must be supported by pure State aid.

Aid for the payment of insurance premiums

JC.1 The scope of the aid measures envisaged for addressing risk and crisis management cover the needs of the agricultural sector.

I.1.1 Aid measures cover specific risks facing the agricultural sector and address market failures.

Compared to the previous measures offering direct compensation for damage, agricultural insurance is a different type of risk management measure. Insurance transfers the risk to an insurer under a specific condition of premium payment. Therefore, insurance aims to improve the resilience of operators exposed to agricultural risks. Except for some specific insurance products, the countries that experienced significant agricultural insurance growth are those that provided public support for the payment of insurance premiums[78].

The agricultural insurance market is characterised by the difficulty of creating a product which is profitable for the insurance company and accessible to the farmer, reducing the consequences of adverse events (absence of a market). The aim of providing support for insurance premiums is to create an insurance market. Subsidies allow insurers to offer a profitable product[79] for which premiums exceed claims. A threshold in terms of uptake is also required[80]. Therefore, increased participation rates (uptake) is another objective of the support for insurance premiums.

The intervention logic for support for insurance premiums is presented in Figure 11.

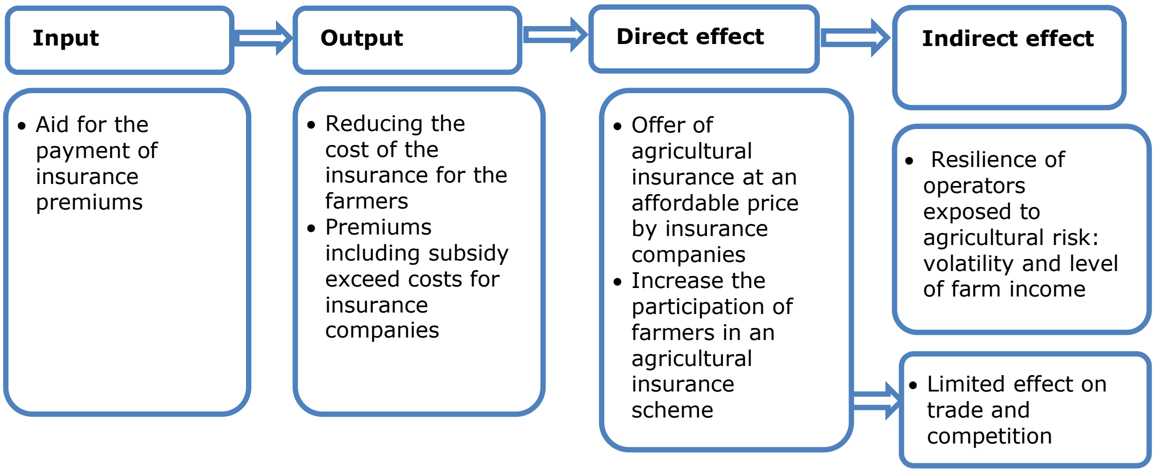
[77] EC, DG Environment, EU Platform on Large Carnivores. May 2016. Supporting good practice for coexistence – Presentation of examples and analysis of EARFD support.

[78] Agricultural insurance markets often suffer from systemic risks (that is, risk that affects a large number of economic units, such as farmers and herders, simultaneously which can generate major losses in the portfolio of agricultural insurers) and market inefficiencies including information asymmetries.

[79] Loss ratio (claims/premiums received including subsidies) is less than 1. If the loss ratio is greater than 1, the product is not profitable.

[80] The higher the ratio between the premium and the amount of the subsidy, the more attractive the product, the higher the number of subscribers and the better the risk is distributed.

Figure 11: Intervention logic for support to insurance premiums



Source: ADE

The European agricultural insurance market is complex and diverse. It covers widespread animal and vegetable production and the insurance products offered are very diverse in terms of their conditions. The situation is variable from one MS to another, as shown by the recent study on risk management in EU Agriculture[81].

At the level of crop insurance, the most common type of insurance is that against climate risk. It can cover either a simple risk (mainly hail risk) or several climate risks. Catastrophic events or those such as drought or excessive rainfall are rarely covered. Farmer participation varies widely. For example, in Germany uptake for hail insurance reaches 72% of the total surface area. In Spain, the multi-risk insurance for cereal production covers 67.6%. According to the authors, the variations in the uptake of agricultural insurance among MS depends at least partially on the public support provided either by the CAP instruments or by State aid. Germany differentiates itself by having an insurance (hail insurance) which has no public support.

There exist few insurances covering health risks at plant level. When it exists, the uptake is limited. At the level of livestock, insurance schemes cover a wide range of health risks. This type of insurance is well-spread over Europe, and may or may not benefit from public support. The results in terms of uptake are very variable from one MS to another. At the level of the supply of insurance, the study reveals that the agricultural insurance market is concentrated in a small number of actors dominating the national market. There are, however, many markets with many players in Spain, Bulgaria, Hungary, Italy and Romania. All insurance is offered by private companies except in Greece and Cyprus.

I.1.2 State aid measures are used by MS and meet the need at the level of the MS and the beneficiary.

Public support for the payment of insurance premiums provided on the basis of the current SA framework is block-exempted or notified in 13 MS (see Table 27).

[81] Study on risk management in EU agriculture chapitre 5. EC October 2017.

Table 27: Number of aid schemes and SA expenditures for insurance premiums against the RDP 2014-2020 budget and expenditures for reference period

MS	07/2014-12/2016					2014-2020	2007-2013
	Number		Expenditures (€ million)			RDP budget (€ million)	State aid expenditures (€ million)
	GL	ABER	GL	ABER	Total	Total	Total
Austria		14		50.08	50.08		250.20
Belgium		1		-	-	(Flanders) 5.1	
Bulgaria		1		1.32	1.32		1.10
Croatia						57.0	
Cyprus							28.70
Czech Republic		1		35.74	35.74		78.70
Denmark							
Estonia		1		0.02	0.02		
Finland							
France			*RDP*			540.7	66.40
Germany							0.90
Greece							
Hungary		1		9.62	9.62	76.3	
Ireland							
Italy	1	9	3.34	338.35	341.69	1396.8	941.00
Latvia		1		1.15	1.15	10.0	3.60
Lithuania	1	2		4.77	4.77	17.0	40.40
Luxembourg		1			-		8.60
Malta						2.5	
Netherlands						54.0	0.50
Poland	2		89.11		89.11		203.30
Portugal						53.2	
Romania							16.20
Slovakia							9.30
Slovenia		93		2.99	2.99		46.60
Spain	2	4	553.43	52.82	606.25		2123.00
Sweden							
United Kingdom							
TOTAL 8 CS MS	5	15	645.88	426.93	1072.81	1937.5	3413.30
TOTAL EU-28	6	129	645.88	496.85	1142.73	2212.6	3818.50

Source: ADE, based on data from DG COMP; RDP 2014-2020 budget and 2007-2013 State aid expenditures from CEIGRAM.

Among the MS concerned by our case studies, support for payment of insurance premiums has been implemented in Spain, Poland, the Czech Republic, Italy and to some degrees in Estonia. **The modalities and importance of the insurance premium payment scheme are very diverse.**

In **Spain**, the agricultural insurance system – in place for 40 years – is the most comprehensive. Being the backbone of the risk management policy, it covers a wide variety of agricultural risks. Subsidies for insurance premiums are granted by the national and regional governments. In fact, a national aid scheme is notified and Autonomous Regions can provide additional subsidies either included in the agricultural GL notification made by the national government or communicated separately under the ABER.

Poland also has long-standing experience in agricultural insurance. The insurance sector is strongly dominated by publicly-supported insurance. Since 2005 the legal framework has been modified several times to make the support better suited to farmers' needs and budgetary capacity as well as taking into account suggestions from the insurance companies. The changes, and specifically the introduction of an insurance obligation, helped to increase the number of insurance policies taken out. Nevertheless, despite the subsidies and adjustments to the framework, the share of insured farms is still low. Only one-fifth of the farms were insured during the period 2009-2015.

Estonia has one ABER aid scheme (SA.40488) covering the payment of agricultural insurance premiums. In future such support will be included in the RDP. Although the legal framework for implementation of this aid is operational, insurance companies in Estonia are not interested in providing insurance in the crop production sector (the market is relatively small and not very profitable). It is possible to obtain insurance related to some animal diseases, but the interest of farmers has been modest.

Others, including France and Italy, are using the RD measure (RDR Art. 28, RD measure 17.1) to support the payment of insurance premiums (cf. RDP 2014-2020 budget in Table 27).

Finally, some MS have chosen not to intervene in the insurance market. Finland did consider introducing premium subsidies for crop insurance or financial contributions to mutual funds. A Risk Management Working Group was established by the Ministry of Agriculture and Forestry in 2013. However, in consultation with insurance companies and farmers' organizations, the Working Group decided against this solution[82]. Its view was that changes in other agricultural subsidies had, to some extent, replaced the need for a compensation scheme and that risk management should be left to the voluntary actions of farmers, making use where possible of private insurance markets.

Currently **Germany** is not supporting subsidies for insurance premiums, either in RDP or through State aid. But they will most probably introduce it before the end of the programming period for some RDPs. This subject is being discussed widely, including for the CAP post-2020 debate. The fact that damage from adverse climatic events is less compensated for, if not insured, points in this direction.

JC.2 Conditions, eligible costs and aid intensity are adequate to cover damage and losses (potential or actually incurred).

In countries where the measure has been implemented, no difficulties are mentioned regarding the scope and the conditions of this measure. In Estonia, authorities consider the list of eligible costs, method of calculation and aid intensity as adequate. They have not imposed any limit on the amount of the insurance premium eligible for aid because there has been no need for that.

Moreover the authorities of the **Czech Republic** consider the list of eligible costs, the method of calculation and the aid intensity as adequate. The block-exempted aid scheme provides support for insurance related to adverse climatic events and damage caused by environmental incidents. It does not support insurance for damage caused by protected animals. According to the Czech Guarantee and Support Fund for Agriculture and Forestry, the scope and conditions set out by ABER (the instrument used), as well as the support limits set by the aid scheme[83], sufficiently cover the needs of the sector. In particular, the increase of upper limit or intensity of support in comparison with the previous period was welcomed by the Fund. There was no demand for reviewing the scope of the measure by the Fund representative.

The rules on aid intensity do not pose a problem for the proper functioning of the **Spanish** insurance system. In 2014 the State Entity for Agricultural Insurance (ENESA) conducted an assessment of the conditions and rules of the current agricultural SA framework compared to the previous framework 2007-2013. Overall, the changes made to the framework were assessed as generally positive. With regard to the conditions for agricultural insurance premiums, ENESA considered that the 2014-2020 thresholds are more in line with the Spanish insurance system. The inclusion of coverage of damage produced by protected animals was also considered positive, as such a measure was already available in the Spanish system, although not subsidized. Hence the change to the scope implies better protection for the farmers.

The results of the **online survey** confirm the adequacy of the rules of the measure as regards the needs (see Annex 8). Indeed 70% of the respondents (N=7) consider that

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[82] Finnish Ministry of Agriculture and Forestry, Expiration of the Compensation Fund (2014), http://mmm.fi/artikkeli/-/asset_publisher/satovahinkokorvausjarjestelma-paattyy-vuoden-2015-lopussa

[83] Public support ranges between 35-65% of insurance cost in case of special crops, between 10-50% for the rest of crops and between 25-50% for insurance of animals.

conditions related to the scope, the beneficiaries, and the aid intensity are not a constraint on the design of the measure. Nevertheless, for some MS (30%) eligible costs, in terms of the size of the loss that farmers must experience to be eligible for support, have represented a constraint and the design of the measure was adapted to be aligned with and eligible under ABER rules.

JC.3 The agricultural SA framework and relevant State aid measures are aligned with RDR rules.

State aid related to support for insurance premiums is aligned with the equivalent measures of the RDR and therefore with the overall objectives of the EU. However, there is some difference between SA instruments and equivalent measures in the RDR.

The RDR is more restrictive which explains, in part, why **Spain** has chosen to maintain its support through State aid. The main difference in the legal formulations between the RDR and the agricultural SA instruments are the rules on eligible costs. For support paid with the RDP as a legal basis, only losses higher than 30% of the farmer's average annual production in the preceding three-year period were eligible. For the agricultural GL and ABER there are no minimum requirements as regards losses. The "30% loss-requirement" in the RDR represented a constraint to Spain because, as explained previously, the demand for this type of insurance is very limited. The Agricultural Provisions from the Omnibus Regulation[84] (entry into force 1 January 2018) revised this loss requirement by reducing it to 20%. This may make the inclusion of the support measure in the RDP more attractive in the future.

Another limit of the RD Regulation is the requirement that the "occurrence of an adverse climatic event or the outbreak of an animal or plant disease or pest infestation or an environmental incident has to be formally recognized as such by the competent authority of the MS concerned". This kind of requirement is more appropriate for the rules regarding *ex post* payment of aid. In the case of insurance subsidies, private insurance companies run their business and offer their products according to demand and market economy logic. MS do not intervene to confirm the occurrence of an event in order for an insurance company to pay out an indemnity. When an indemnity is paid out, it depends on what kind of product the farmer has subscribed to, and what is agreed between the farmer and the insurance company in the contract established.

In the case of insurance, it is more appropriate to set rules for what MS may subsidize, such that those kinds of insurance policies and maximum subsidy levels can be accepted in order for the subsidy not to distort competition on the internal market. However, the requirement that a MS should recognize an event interferes greatly with the functioning of the Spanish insurance system. These two restrictive RDR conditions are aligned with the conditions of Annex II of the WTO agreement on agriculture.

5.2 To what extent are the rules for the aid effective with regard to the effect on competition and trade within the internal market? (EQ2)

5.2.1 Approach

Rationale and coverage. The rules for the aid in the primary production of agricultural products provide a clear distinction between SMEs on the one hand and large enterprises on the other. ABER is limited to State aid in favour of SMEs given the more limited effects on trade distortion. Since the large majority of undertakings (enterprises) in the primary production of agricultural products are SMEs, ABER covers, to a large extent, the needs in the primary production of agricultural products. Aid granted to large enterprises must be cleared by notification (agricultural GL, recital 25).

This EQ has two sub-questions: first, do MS extend the aid to large enterprises or do they prefer to target only SMEs? In the case of aid granted to large enterprises, were there

[84] Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 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.

negative effects for the competitors and on trade within the internal market? If this is the case, what were the effects and were they outweighed by the positive effects of the aid (e.g. benefits in terms of ecological and economic development, growth and jobs or public policy objectives)? The objective is thus to explore the balance between the positive effects of the aid measures on the development objective relative to the negative impact on trade.

Judgement criteria:

- JC.1 Aid measures under review target mainly SMEs.
- JC.2 The overall balance of positive effects (achieved or expected) exceeds the negative effects (observed or expected) on competitors and on trade.

Methodology. The mapping of targeting only of SMEs or also of large enterprises starts with a statistical analysis based on information collected from the State aid database and Scoreboard (DG COMP). This is complemented by a review of the Commission's decision notes for notified aid schemes in order to identify State aid interventions in favour of large enterprises. In addition, interviews were carried out with the competent authorities in the respective case study countries in order to understand the targeting strategy. The overall balance of positive impacts and the negative effects on competition and on trade has been assessed based on a counterfactual scenario carried out on a selection of effectively granted State aid interventions for the five risk measures covered.

The sub-question envisaged carrying out the balance test for aid granted to large enterprises likely to present trade distorting effects. However, information from the aforementioned mapping work showed that very few expenditures had been made in favour of large enterprises (aid schemes notified during the examination period by the CS MS). It was therefore not possible to identify large enterprises benefiting from State aid during the examination period.

Given this context, the evaluator has decided to conduct – as an illustration - the balance test on the basis of aid provided to SMEs. The selection of State aid interventions was designed to cover at least one type of measure and as far as possible two MS per measure.

For the selected interventions, different types of analysis have been conducted focusing on (i) the economic impact on the beneficiaries and the incentive effects of the State aid by providing a comparison between a situation with and a situation without support; (ii) the indirect effects at sector level; and (iii) the effects on trade and competition. Owing to the specificities of the various measures, detailed guidance has been provided for each measure.

5.2.2 Summary answer

EQ2: To what extent are the rules for the aid effective with regard to the effect on competition and trade within the internal market?
In particular, **Do Member States extend the aid to large enterprises or prefer to target only SMEs?** **In case of aid granted to large enterprises, were there negative effects for the competitors and on trade within the internal market? If yes, what were these negative effects and were they outweighed by the positive effects of the aid (e.g. benefits in terms of ecological and economic development, growth and jobs and/or public policy objectives)?**
The analysis of aid schemes in the different MS confirms that the beneficiaries of State aid were almost exclusively agricultural holdings falling within the category of SMEs. This reflects the structure of the European agricultural sector. MS with large enterprises active in the sector notify aid schemes to ensure that they include those large enterprises. There is no targeting strategy but rather a need by MS to cover all undertakings active in the sector regardless of their size. Only aid measures related to adverse climatic events and animal diseases have aid schemes open to large enterprises. However, in these notified aid schemes the evidence collected suggested that, in practice, only one payment to one large enterprise had been made. In the absence of aid schemes granting aid to large enterprises, the overall balance of positive effects (achieved or expected) compared to the negative effects (observed or expected) on competition and on trade was assessed for each of the five risk management measures granted to SMEs. For the four compensatory aid measures, the counterfactual scenarios (comparing a situation with and without support) showed that **State aid improves the beneficiary's economic situation, even if this aid does not completely compensate for the losses incurred due to the adverse**

event. The impact on the economic situation also depends on the share of CAP support in the beneficiary's income which by itself has an income-stabilizing effect. Besides the economic effect, support provided has other effects on public policy which vary among the measures. It ensures the viability of undertakings in fragile farming systems as was the case of aid provided in the context of severe drought (France, Poland). In the case of animal diseases, aid also contributes to an increased acceptance of biosecurity measures by the farmers in the event of epidemics and allows eradication of or limits on the expansion of animal diseases and plant pests. In the case of aid for fallen stock, aid guarantees safe disposal of carcasses which forms an important element in public health. Aid related to damage caused by protected animals promotes co-existence of livestock farmers and protected animals. All these direct effects contribute to RD policies, human and animal health policies, and the EU biodiversity policy.

The negative effects on trade and competition for the compensatory measure were assessed qualitatively as very low. The support provided does not increase production. Furthermore, given that support is accessible to all undertakings affected by the adverse event, such aid does not distort competition within a MS or region. Potential distortion of competition between MS is limited: the amounts per undertaking are small (expressed in absolute terms and as share in gross income or operating account) and most MS offer similar support measures. This statement was supported by the survey results. Respondents indicated not only that their own support was not creating distortion but also reported that such aid from other MS was not creating distortion in their own MS.

For the **insurance premium support**, the analysis of direct effects is based on a literature review in two MS (Spain and Poland) with long experience of this type of support. The effect of State aid on the uptake of insurance is positive, even though in both cases aid is not the only factor. Other factors play a role in the uptake such as the type of production and risks covered, the quality of insurance products offered, or the specific conditions of intervention of an insurance. Despite their limitations, both studies show a **positive effect on the economic situation of the insured agricultural holdings as compared to the others**.

In the two MS studied, the potential negative effect on competition between insurance companies has been reduced by opening State aid support to all insurance companies. Insurance support does not have negative effects on competition between farms within a MS given that all farms have access to support premiums. Between MS some negative effects can not excluded. However such distortion remains limited insofar as State aid covers only part of the insurance premium costs (65% maximum). This has been confirmed by survey respondents.

For the five risk management measures studied, we conclude that State aid rules have made it possible to grant public support for which the positive effects on the beneficiaries and above all on the public policies concerned exceed the negligible effects of market distortion and competition.

5.2.3 Analysis

JC.1 Aid measures under review target mainly SMEs.

As was shown in EQ1, block-exempted aid schemes represent the majority of schemes, which indicates that the SMEs are the main beneficiaries of State aid measures. This is not a particular targeting choice; it is a reflection of the structure of the primary agricultural production sector which is mainly covered by small and very small enterprises (see descriptive part). However, the opening of State aid to large enterprises has been realised by MS with large enterprises in the sector and which wish to apply the support to the whole sector, regardless of the size of the undertakings.

The following review of the notified aid schemes shows that aid is mainly extended to large enterprises in the case of adverse climatic events and support related to animal diseases and plant pests. However, **there were almost no expenditures in favour of large enterprises during the examination period**.

Aid to compensate damage caused by adverse climatic events

Most MS used block-exempted aid schemes. In fact, at the level of EU-28, a total of 26 block-exempted aid schemes and nine notified aid schemes were introduced during the examination period providing this type of support. The notified aid schemes are distributed between seven MS (Bulgaria, Cyprus, Germany, Greece, Hungary, Poland and Romania). Country case studies covered the notified aid schemes in Germany and Poland which are open to large enterprises. However, no expenditures in favour of large enterprises were registered by these MS during the examination period.

Aid related to animal diseases and plant pests

In total, 158 block-exempted aid schemes distributed between 19 MS provide support compared to eight notified aid schemes in six MS (Greece, Estonia, France, Germany, Italy and the Netherlands). Expenditures in favour of large enterprises by the aid schemes notified during the examination period are very small in the CS MS. In **Estonia**, one large undertaking received aid for measures to eradicate ASF and to make good damage caused by this disease (SA.42894), to an amount of €268 000[85].

The largest level of expenditure is registered in **France** (€20.00 million aid scheme SA.45615). However, the aid scheme did not provide aid to large enterprises during the examination period (Commission TAM website)[86]. In the **Czech Republic**, the notified aid scheme SA.42253 allows the provision of State aid to all poultry undertakings, whether SMEs or large undertakings. During the examination period a total of €3.80 million was disbursed in favour of SMEs. **Germany** has one notified aid scheme in Lower Saxony (SA.42806) targeting livestock undertakings of any size. During the examination period, aid amounting to €10.52 million was provided, all to SMEs.

Aid related to fallen stock

MS have 33 block-exempted aid schemes against two notified schemes (Bulgaria and Germany). In **Germany**, the notified aid scheme was not accessible to large enterprises.

Aid to compensate for damage caused by protected animals

Support to compensate for the damage caused by protected animals can only be provided via notified aid schemes. Therefore the aid scheme is open to all undertakings active in primary production. However, given the nature of the undertakings involved, it is very unlikely that large enterprises would be affected. Six MS have mobilised the measure; they are Austria, Finland, Germany, Italy, Lithuania and Sweden.

The information collected in the country case studies confirmed this assumption. In **Finland**, crop and livestock producers are all SMEs, so no aid is paid to large enterprises. In **Italy**, both aid schemes cover enterprises on the territory of the Gran Sasso and Monti della Laga National Park which are all of micro, small and medium size. In **Germany**, the measure is focused on SMEs and State aid provided in connection with protected animals in 2016 was €3 000 in Bavaria (SA.42452).

According to the online survey, five MS provide State aid under the agricultural *de minimis* which suggests that the amount per beneficiary is rather modest and focused on SMEs.

Aid for the payment of insurance premiums

Aid for the payment of insurance premiums is mainly provided on the basis of block-exempted aid schemes (129), thus only accessible for SMEs. This reflects the structure of farms in the EU MS. Only four MS notified an aid scheme during the examination period: Poland, Italy, Lithuania and Spain. With an amount of €553 million[87], **Spain** recorded by far the highest amount of expenditure, but beneficiaries have been SMEs. In **Poland**, all entities (regardless of the scale of production) conducting an agricultural activity can receive subsidies for insurance premiums. Disbursements have been registered to a total of €89.11 million[88]. However, the Polish farming sector is characterised by small farms[89], thus no aid has been provided to large enterprises.

JC.2 The overall balance of positive impacts (achieved or expected) exceeds the negative effects (observed or expected) on competitors and trade.

The overall balance is analysed for each aid measure individually.

Aid to compensate damage caused by adverse climatic events

85 Case study report.
86 It is possible that aid may be provided to large enterprises but under the threshold of €60 000 (which is the publication requirement).
87 SA.40313 and SA.42697.
88 SA.39562.
89 Small undertakings (standard output < €25 000) are predominant: they represent 87% of the total number of undertakings in 2013, while medium-sized and large undertakings accounts for 11% and 2% respectively (Eurostat).

The purpose and content of the measure is summarized in its title: State aid compensates for losses (income, damage) caused by climatic events associated with natural disasters. The (expected) direct impact on beneficiaries is to improve their resilience, that is to maintain the viability of the undertaking and the agricultural production affected by a climatic event, subsequent to that event. The indirect effect is to contribute to the RDP objectives of enhancing farm viability for all types of undertaking. The intervention logic has been presented in EQ1.

In order to assess the overall balance of impacts of such measure, the evaluator carried out a detailed analysis of **two interventions**:

- The **French** intervention case study concerns a severe drought which affected the Limousin region in 2015 and led to severe losses in the livestock sector (estimated losses of 30-40% in forage maize and 30-37% in grassland). A total of 570 farms received aid (compensation) to a total amount of €2.25 million (SA.41197, block-exempted aid scheme).
- **Poland** was hit in 2015 by a severe drought affecting the whole country. A series of support measures was introduced by the State (SA.43001, block-exempted aid scheme). Nearly 164 200 beneficiaries have been identified for a total amount of €110 million.

I.2.1 and I.2.2 present the conclusions of theses intervention studies. They detailed analysis is presented in Annex 10.

I.2.1 Positive effects on beneficiaries and on public policies.

Although the aid received by undertakings affected by an adverse climatic events is limited – it compensates only partially for losses - beneficiaries considered it important for the viability of the undertakings and the larger sector.
The economic impact of the aid in the two intervention case studies was assessed on the basis of a comparison of the operating account of a typical farm in the region using three scenarios: (i) baseline (without any loss), (ii) a scenario with losses but without compensation, and (iii) a scenario with losses and with compensation.

Drought in the Limousin region 2016 (France)

Losses associated with the drought in the Limousin region resulted in a decrease in gross farm income[90] of 22% without compensation and 16% with compensation. The support compensates for one-quarter of the forage loss and accounts for 7% of the gross farm income. The analysis also shows that, given their importance, CAP support has a stabilizing effect on income.

The discussion of this intervention case with the competent authorities in Haute Vienne confirmed our analysis. Interviewees underlined the importance of this aid in the context of a relatively fragile farming system in which compensation plays an essential role for the farmers.

A farmer member of the Chamber of Agriculture confirms the low income in extensive cattle breeding. The support, even with delays, makes it possible to buy fodder which is essential to maintain the livestock while waiting for the next harvest. The interview also highlighted that the occurrence of drought events is increasing. In the context of the CAP and the RDR, the objective is to increase fodder autonomy for farms producing their fodder and putting animals into pasture. This system is vulnerable to drought. Research is ongoing on varieties that are more resistant to drought and on alternative forages, but it takes time.

The support provided contributed to the CAP objectives of enhancing farm viability and improving the economic performance of farms (priority 2A of the EU RD policy). In fact, farms facing large-scale losses associated with exceptional weather events could disappear and affect the economy of the sector and the Limousin region. The primary sector represents 6.0% of total jobs in Limousin against 2.9% for metropolitan France (source: INSEE). Agricultural work still represents a significant weight: 26 annual work units per

[90] Gross farm income corresponds to total output (total production value), plus direct payments minus intermediate consumption (FADN).

1 000 inhabitants against 12 on average in metropolitan areas. This is therefore an important role for farmers in the management of CAP objectives.

Drought in Poland in 2015

The drought of spring and summer 2015 resulted in farm losses in the whole country. The Polish government agreed in its resolution No 147/2015 on an "*Aid programme for farmers and agricultural producers who have suffered losses on farms or special sectors of agricultural production caused by the occurrence of drought in 2015*". Nearly 164 200 beneficiaries received an average compensation of €632. According to the data on the distribution of direct support related to the 2015 drought, over 64% of the beneficiaries were farmers from the Polish FADN region Mazowsze i Podlasie.

The loss was estimated on the basis of a comparison of total output between the 2012-2014 period and the 2015 results (type of farming: "other grazing livestock"). On this basis a simulation was performed comparing the 2015 results with or without assistance. Despite these limitations, this analysis shows the effect of the climate shock on gross farm income and how it is offset by State aid and also by CAP support. The losses accounted for about 12% of the gross farm income and more than 35% of the gross farm income without CAP support. By adding the compensation to the CAP support, it makes it possible to reach a gross income of 95% compared to the reference situation. This analysis shows that the CAP support acts as a stabiliser of gross income.

As in France, the objective is to contribute to the CAP objective of improving farm viability and contributing to the improvement of the economic performance of farms (priority 2A of the RD policy of the EU). In Poland, the totality of the aid provided by the EC under the CAP (both pillars) amounted to approximately €6 268 million in 2015 and State intervention totalled €274 million. Direct interventions for aid scheme SA.43001 amounted to €110 million, which represented 1.7% of public policy in the sector.

Interviewed farmers report that the lack of support would have put their farms in serious financial difficulties. However, it was difficult for them to state that these difficulties may have caused the end of their activity.

I.2.2 Impact on trade and competition.

Measures to compensate for losses following an adverse climatic event have a limited impact on trade and competition for the following reasons:

- **They do not aim to increase production**; the objective is to allow survival of the farms by pursuing the activity of the farm and by a return to a situation prevailing before the event by compensating for the losses incurred. The aid should help at most to recover the situation as it was before the adverse climatic event (e.g. aid to purchase fodder during a drought and avoid or limit the sale of animals for which there is insufficient feed on the farm). **They are not intended to artificially maintain production which is structurally unprofitable but they are aimed at exceptional events.**
- They do not affect competition in the MS insofar as for a given event all the affected undertakings are compensated in the same way. However, as these are measures which fall under the public policy of the MS or region, there could theoretically be differences in policy between MS or regions, thus creating differences in treatment between farms, depending on their location. However, taking into account that a large majority of MS and regions have planned this type of support either directly or indirectly through support for insurance premiums, the risk of distortion is low.

This analysis is confirmed by the findings of the **online survey**. Regarding the risk of distortion, according to 15 out of 16 respondents the State aid measure does not create distortion (see Annex 15 Table 30). Regarding the effect of State aid of other MS, three MS stated that there was some evidence of distortion but it was of negligible proportions, ten felt there was no distortion and the remaining three did not give an opinion.

Aid related to animal diseases and plant pests

Recalling the intervention logic (see EQ1), the aim of this aid measure is to limit the economic and health effects of a disease, both at the level of the undertakings directly affected and at the level of the sector. The purpose of the measure is to compensate the undertakings for losses incurred as a consequence of the disease or of the measures taken to prevent its extension. This compensation for losses also has an incentive effect. It actively encourages participation of operators, particularly in the declaration of suspicions.

An intervention case study has been conducted for the **H5N1 epidemic in France**[91]. The epidemic hit France in November 2015. It was a major crisis that mainly affected "foie gras" producers in eight South-West departments (among them are the five departments of the Aquitaine region). France rapidly took measures to curb the epidemic, in particular by eliminating all animals from infected farms but also by creating a buffer zone during several months in an area large enough to reduce the risk of contamination. The restriction area covered more than 70% of the production capacity of the sector. In parallel with these measures, France imposed biosecurity measures related, in particular, to farming practices and the housing of animals.

This intervention is representative of State aid issues related to this measure given the scale of the crisis, the challenges in terms of the survival of a sector, the commercial impacts and the mobilization of financial resources. The detailed analysis of the intervention is presented in Annex 11.

I.2.1 Positive effects on beneficiaries and on public policies.

The assessment of direct effects on the beneficiaries and the region has been based on a comparison between the evolution of economic results of farms in the Aquitaine and Pays de la Loire regions. Both regions produce foie gras; the first was affected by the H5N1 epidemic and received State aid in this regard, the latter was not affected by the disease[92].

This indicative counterfactual analysis shows that the compensation is effective, but partial. Without the compensation provided by the State aid, the situation would have been much worse, that is, the gross farm income would have been much lower in the absence of aid. The compensation is partial given it does not allow farms in the affected region (Aquitaine) to recover the gap in gross farm income. Their gross farm income is still lower than the gross farm income in the non-affected region.

The competent authorities confirm the main point of our analysis. The aid mentioned in the FADN data is a prepayment corresponding to approximately 50% of the total aid granted. The compensation was perceived as adequate by the beneficiaries. The latter was confirmed through interviews with CIFOG[93] and a producer testimony.

For the beneficiaries, the key factors of this intervention were the following: (i) a rapid intervention; (ii) a calculation of the compensation based on robust economic data available for several years and shared between the representatives of the producers and the authorities; and (iii) clear and precise communication with the producers. This context made it possible to quickly implement biosecurity measures accepted and understood by producers, even though this measure required changes in practices or investments.

I.2.2 Impact on trade and competition.

The French H5N1 crisis had a negative effect on **production volumes**, which fell by 10% in 2015. State aid compensated for some losses. As such, it has contributed to maintaining the sector while it did not allow a return to previous production levels.

The loss of French production has not been offset by imports from third countries but by a reduction in consumption. Consumption followed the same trend, as shown in Table 28. The new H5N1 crisis in 2016-2017 has had a continued impact on production and consumption.

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[91] An intervention case study has been implemented in Estonia related to the ASF crisis, but data did not allow to conduct the counterfactual scenario necessary for EQ2.

[92] This is not considered as real counterfactual, since Pays de la Loire was not affected by avian flue.

[93] The foie gras makers' committee (Comité Interprofessionnel des Palmipèdes à Foie Gras).

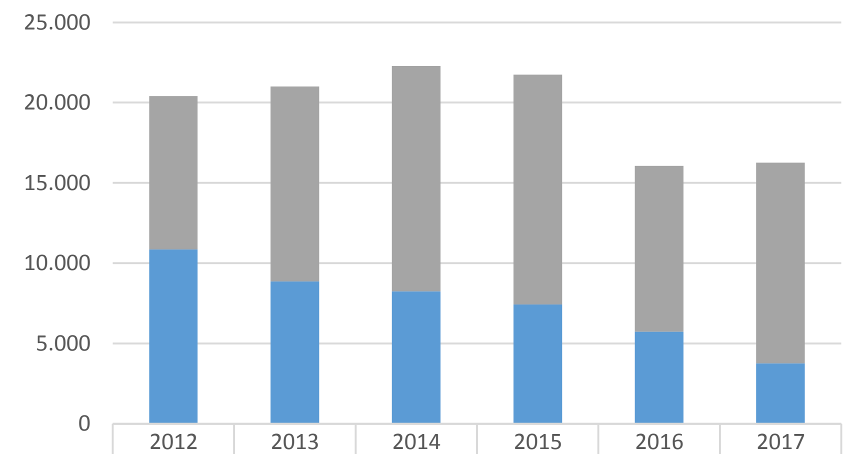
Table 28: Gross output and domestic consumption of duck in France between 2014 and 2017 (1 000 tons of carcass weight equivalent)

	2014	2015	2016	2017	% 2016/2015	% 2017/2015
Gross output of ducks	230	232	208	188	-10%	-21%
Domestic consumption of duck	202	204	186	161	-9%	-23%

Source: FranceAgrimer, based on SSP (Statistical and Foresight Service)

Moreover, the H5N1 crisis had a major impact on French **exports** of foie gras as shown in Figure 12. Exports remained well below the levels registered before the disease occurred. These effects are due to the reduction in available volumes but also due to the closures of some markets in 2016. However, it is too early to appreciate all the effects of the crisis on the entire sector.

Figure 12: Export of foie gras from France to EU-28 and outside EU-28 (100kg)



	2012	2013	2014	2015	2016	2017
Foies gras (from domestic ducks) - frozen	9.550	12.141	14.030	14.315	10.332	12.494
Foies gras (from domestic ducks) - fresh or chilled	10.849	8.862	8.252	7.423	5.732	3.760

Source: Eurostat, EU trade since 1988 by CN8 (DS-016890)

In conclusion, the aid contributed to maintaining production and to gradually regaining production capacity. However, production and exports remain still well below the levels before the disease occurred.

In terms of the **effects on competition**, as the measures were accessible to all companies affected by the crisis, it did not have any effect on competition within a MS. It could have a risk of distortion compared to other MS which do not grant this type of support. However, given that the measures are not aiming at increasing production and that the majority of the MS have this support measure, the impact on the competition is negligible. The results of the survey (see Annex 15, Table 31) confirm that MS largely share this point of view.

Aid for fallen stock

As stated in the intervention logic presented in EQ1, the objective of this measure is a reduction of risks related to harmful diseases through the prevention of their distribution (negative externalities) as, for example, in the case of cattle encephalopathy or other infectious animal diseases such as the classical swine pest or foot-and-mouth disease. This leads to the obligation to remove potentially infectious parts of animals or of fallen stock, since a dead animal without diagnosis might have died because of an infectious disease. As such, the measure puts farmers in a position where hiding or self-disposal is unnecessary and where there is no economic incentive to bury or to burn dead animals, especially since these animals can theoretically distribute infections or diseases.

In the absence of expenditures in favour of large enterprises, **two intervention case studies** have been selected from among the block-exempted aid schemes with important registered expenditures.

- In **Germany**, federal states are in charge of the disposal of fallen stock. In Nordrhein-Westfalen, about €10.72 million has been disbursed for fallen stock (SA.41365). State aid covers the costs of the removal (100%) and the disposal of fallen stock (75%), which are paid for from the animal disease fund. The farmer has to bear 25% of the costs of the disposal (namely €2.1 per animal). The compensation (€116.85 per animal) for the removal and disposal of fallen stock is granted to the firm for carcass disposal.
- **Finland** provides aid for removal and destruction of fallen stock[94] (SA.39898). One firm is contracted; they are obliged to collect all animal carcasses within the collection zone when required. They receive the aid from the State, which leads to a reduction in the cost of disposal for the farmer of about 50% (aid intensity varies between 40% and 69% depending on the species).

The detailed analysis of each intervention is presented in Annex 12.

I.2.1 Positive effects on beneficiaries and on public policies.

The direct economic effects of State aid related to fallen stock are relatively modest and economically irrelevant. Yet the aid is high enough at farm level to discourage farmers from disposing of fallen stock in an illegal manner (burning or burying).

To assess the direct effect of the aid on the beneficiaries, the profit and loss accounts of producers are simulated with and without the support. In particular, in **Germany** the counterfactual scenario was conducted for farms specialized in cattle in Lower Saxony based on FADN data. According to this data, the average farm has 90 livestock units (about a hundred animals). According the Animal Disease Fund Lower Saxony[95], on average 6% of the total herd are disposed of. The share of the support is about 1.2%-1.4% of the gross farm income, depending on the specific economic balance in a given year. However in both cases the amount of support is economically irrelevant. On the other hand €120 per animal, or in total €700 per farm, might be sufficient to persuade farmers to avoid disposal on their farm by burning or burying. Therefore, the incentive is high enough to prevent such unwanted behaviour.

To estimate the direct effect of the support provided in **Finland**, the support is compared to the value of total output, gross farm income and total subsidies in milk and other grazing livestock farms separately. The proportion of disposal of livestock is assumed to be 4%. State aid for the disposal of fallen stock for dairy farms amounts to 0.15% of total output on dairy farms and 0.30% of gross farm income. Significantly, it is a relatively small share of total subsidies on these farms, amounting to 0.36% of total subsidies. In the case of other grazing farms, State aid for the disposal of fallen stock amounts to a slightly higher share of total livestock output (0.26%) and of gross farm income (0.32%). It makes up a smaller share of total subsidies on these farms, amounting to 0.30% of total subsidies. In both types of Finnish livestock production, aid for fallen stock makes only a very modest contribution to the value of output and gross farm income. While the aid is small in relation to overall income on livestock farms, it is a significant subsidy in relation to the specific cost of disposal. In the absence of this aid, there is a danger that more farmers would be tempted to ignore the law and to dispose of dead animals themselves.

I.2.2 Impact on trade and competition.

Since the aid related to fallen stock is a compensatory measure, there are no effects on increases in production. There is no impact on competition in the MS as all undertakings benefit from the same service. Compared to the risk of competition with other MS, this risk is limited insofar as this service is offered in most MS. In any case the risk of negative effects in terms of competition are low, since the support per farm is small compared to the total public aid received by this type of farm. This assessment is confirmed by the survey of the MS (see Annex 14 Table 32).

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[94] With respect to disposal, Finland is divided into two parts: the remote area and the collection area. An animal that has died in the collection area, as well as the by-products of home slaughter, must be taken to carcass collection. Burying is however permitted in remote areas (confined to districts in northern Finland where animal densities are very low). It must not pose a risk to human or animal health. Rules related to remote areas are national derogations.

[95] The information was provided by the Animal Disease Fund Lower Saxony on request.

Aid to compensate for the damage caused by protected animals

Aid to compensate for damage caused by protected animals has several objectives: (i) to compensate the farmer who has suffered damage caused by a protected animal; and (ii) through this response to the damage, to improve the acceptability of the co-existence between agricultural producers and protected animals favouring the protection of these species. The complete intervention logic is presented in EQ1.

The intervention case study has been carried out in **Finland**, which registered expenditures of €1.46 million (SA.40228). The purpose of this aid scheme is to compensate for damage caused by wolves, bears, lynxes and wolverines to primary agricultural production. The detailed analysis is presented in Annex 13.

I.2.1 Positive effects on beneficiaries and on public policies.

The direct effect of the aid on the beneficiaries in Finland is estimated using a counterfactual scenario, that is comparing the income of producers with and without this support. The largest group of production animals affected is sheep, so the analysis concentrates on them.

Around 0.2% of total sheep numbers are killed by large carnivores each year in Finland. There were about 50 attacks during the 2014-2016 period, killing on average five animals per attack. Support paid per animal is about €370; hence the average compensation per farm after an attack amounts to €1 850. Based on the simulation, State aid in compensation for damage by protected animals amounts to 3.5% of total output and 5.7% of gross farm income on the affected farms. Its share of total subsidies on these farms amounted to 5.3%.

The availability of this aid measure makes a modest contribution to the value of output and gross farm income on those Finnish sheep farms on which compensation is paid. Despite the relatively low level of State intervention, this is considered very important for the fragile extensive system of production. The acceptance by farmers of the protection of protected animals (in this case, large carnivores) is seen as a critical issue for maintaining the protected animals in rural areas in the long term. Attitudes differ depending on the carnivore (attitudes are more negative towards wolves, for example) and farmers also have more negative attitudes than the population at large[96].

In a recent study[97], the literature review showed that the link between economic compensation and the tolerance of carnivore predation has rarely been demonstrated and its validity varies with the socio-economic and cultural context. This being the case, the study recognizes that compensation remains justified, particularly in areas where losses are low compared to the costs of preventative measures or when preventative measures have not been sufficient.

I.2.2 Effect on trade and competition.

The State aid did not influence the livestock production capacity of a beneficiary farm; it compensated for the loss of the animals. Therefore the impact on trade is negligible. There is no effect on competition in an MS insofar as all farmers who suffer damage from protected animals are eligible. Compared to breeders in other MS, the potential impact is relatively limited as the support is small and most other MS also offer this compensation (see EQ1).

The online survey results confirm this finding with regard to risks related to distortion of trade and competition (see Annex 15 Table 33).

Aid for the payment of insurance premiums

[96] See Section 6.2 'Recent opinion polls' by Jukka Bisi of the University of Helsinki in the Ministry of Agriculture and Forestry, Management Plan for the Wolf Population in Finland, 2005 (http://www2.nina.no/lcie_new/pdf/634989764653405538_Finnish%20wolf%20plan%20E.pdf).

[97] Linnell, J. D. C. & Cretois, B. 2018, Research for AGRI Committee – The revival of wolves and other large predators and its impact on farmers and their livelihood in rural regions of Europe, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels

Agricultural insurance is a way of compensating for damage caused by an adverse event (adverse climatic events, animal diseases and plant pests, fallen stock, protected animals) by transferring risk to an insurer (broker) under a premium payment arrangement.

Given the importance of **Spanish** public policy with regard to insurance, its long experience (over 40 years) and the availability of data and other relevant studies, a descriptive intervention case study was conducted. The system is based on the joint participation of public and private institutions and the voluntary participation of both insurers and farmers. It is based on risk compensation through the existence of a co-insurance pool of private insurance companies, which is managed by Agroseguro. Its purpose is to manage, on behalf of the shareholder insurers, everything related to combined agricultural insurance. Currently 22 insurance companies and one State company, the Insurance Compensation Consortium (ICC/ Ministry of Economy, Industry and Competitiveness), participate in the pool. Regarding the public sector, ENESA (State Entity for Agricultural Insurance), which is an autonomous institution under the Ministry of Agriculture, acts as a coordination and liaison body for the development of agricultural insurance.

A second intervention case study was carried out in **Poland**. Support has been offered for insurance payments since 2005. Currently five insurance companies are active on the market. They are Powszechny Zakład Ubezpieczeń S.A., Towarzystwo Ubezpieczeń Wzajemnych "TUW", Concordia Polska Towarzystwo Ubezpieczeń Wzajemnych, Mutual Insurance Company (from 2017), and InterRisk Towarzystwo Ubezpieczeń State aid Vienna Insurance Group (from 2017).

The detailed analysis of each intervention is presented in Annex 14.

I.2.1 Direct effects of the aid on participation in the insurance programme.

The counterfactual situation to consider is not the absence of support, since without support there might be no insurance market. Instead, the question is to assess to what extent the subsidized agricultural insurance compliant with State aid rules increases the uptake by undertakings.

Spain. Penetration rates (level of uptake) are very variable[98], and it is difficult to identify common factors because risk exposure, risk perception, farm-holding and cost structures or professional training vary across sectors. For example, for the sheep and goats sector, the perception of risks such as liability or theft insurance is higher than those risks covered by insurances against animal diseases, owing to the existence of the prevention campaigns (CEIGRAM, 2014).

In the case of the low penetration rates for olive groves, the causes seem to be more related to the CAP direct payments which provide a high degree of income security, giving farmers a lower perception of risk. Moreover, sectors that were the last to be included in the system have the lowest penetration rates (owing to a lack of experience).

The level of subsidies is not the only factor explaining the uptake of an insurance product. In fact, in Spain the insurance with the highest level of subsidies (65%) is not the most popular among farmers. Rather, farmers prefer an insurance option which is more expensive but gives a greater degree of protection.

Effect of participating in an insurance programme on the viability of the undertakings and, in particular, volatility of revenues.

The effectiveness of the subsidies can be assessed through a counterfactual scenario, the counterfactual situation being comparable agricultural undertakings which are not insured. Castañeda-Vera and Garrido (2017)[99] analyse the effects of insurances on farmers' incomes comparing different scenarios with different risk management strategies including the

[98] Due to different climatic risks faced by different agricultural sectors, insurance penetration rates vary among productions with for example 50% of penetration in arable crops, 35.6% in olive and 19.22% in cattle production.

[99] Castañeda-Vera and Garrido (2017). Evaluation of risk management tools for stabilising farm income under CAP 2014-2020. Economia Agraria y Recursos Naturales. file:///C:/Users/lke/Downloads/6749-28441-1-PB.pdf

existence or non-existence of insurance. The approach can be assimilated to a counterfactual analysis.

The research focuses on a representative arable farm in a province of Castilla y León where the farm income was simulated from a probability distribution for yields and prices generated from the observed variability of both variables for the period 1993-2005. It considered several scenarios with different risk management strategies and instruments, including crop diversification, direct payments and insurances. In almost all the scenarios, contracting insurances contribute to increasing expected income and to decreasing income's coefficient of variation. The study also shows that decoupled payments (basic and basic plus greening) and rotation play a role in decreasing volatility. Crop insurance is more efficient in terms of increasing income and decreasing variability.

Poland. The Polish Act on agricultural insurance subsidies was introduced in 2005 and aims to address the low share of Polish agricultural land covered by crop insurance. It was modified several times to make the support better suited to farmers' needs and budgetary capacity. The changes and specifically the introduction of an insurance obligation helped to increase the number of insurance policies taken out. However, the share of insured farms is still low. Only about one-fifth of farms were insured in the period 2009-2015 and this proportion remains relatively stable. There is no clear evidence explaining this low rate. On the demand side, costs and the conditions for the compensation of losses are the two main factors.

A national survey was carried out in 2015[100] among 120 holdings including some that had subsidized insurance and others that did not. It seems that the price of insurance and the terms of repayment are critical elements. Indeed, the two main reasons cited for stopping a crop insurance policy are the cost of the insurance and unfair or unreliable refunds in the case of a disaster. Changes in these areas could encourage farmers to maintain insurance. The national survey also shows that farms that subscribe to subsidized insurance schemes are larger and produce higher outputs than others. On the other hand, the national survey does not show a significant difference between the two groups as regards the age of the farmer, the level of education or indebtedness.

Farmers interviewed during the conduct of the evaluation are divided on the adequacy of the support related to their needs. Yet, most of the farmers admit that, thanks to this aid, the uptake of insurance has risen significantly.

On the supply side, insurance companies are not encouraged to market insurance policies in a very risky market. Indeed, the loss ratio (compensated paid/total subsidized insurance) remains generally unfavourable with very large variations. The effect of participating in an insurance programme contributes to the viability of the undertakings and, in particular, controlling the volatility of revenues.

In a recent study[101] the level of income and financial situation of farms using crop and livestock insurances was compared with farms that did not use insurance. The study uses FADN data and covers the years 2009-2015. The results show that income levels and variability are more favourable for farms that have taken out insurance. Despite the statistically significant results that demonstrate the correlation between the two variables, this study does not allow a conclusion that there is a causal link between insurance subscription and farm incomes. Insurance subscription could, for example, be correlated with better management capacity which could be the explanatory variable. The best incomes could also be related to a difference between the two groups regarding the types of farm.

Interviews carried out among extension employees[102] estimate that the aid as such did not contribute to stabilisation of farm incomes, which suggests that the positive effect, even if it exists, remains limited insofar as it is not perceived as such.

[100] Determinants of the demand for crops insurance, factors motivating to purchase such insurance and factors discouraging from this – results of Empirical studies. Joanna Pawlowska-Tsyzko, Michal Soliwoda published in "Assesment of the functioning of crop and livestock insurance in Polish agriculture, Institute of agricultural and food economics national research institute. 2017"

[101] Assesment of the functioning of crop and livestock insurance in Polish agriculture, Institute of agricultural and food economics national research institute. 2017

[102] Survey among extension services' employees present at the annual Polish FADN workshops in Lodz, October 2018.

I.2.2 Impact on the insurance system of competition within the insurance market.

Spain. The existence of a co-insurance scheme, Agroseguro, in which all the insurance companies are integrated could be considered as a limitation to competition, insofar as the provision of agricultural insurance is made exclusively through Agroseguro. This issue was analysed in 2015 by the Spanish National Commission of the Market and Competition (NCMC), which made a series of recommendations in order for the insurance companies to compete on the costs of the different insurance premium options, bearing in mind that the premiums are set by Agroseguro, in accordance with actuarial techniques. As a result of the NCMC recommendations, the calculation of the premiums was modified. Since then each company, starting from the common premium of the co-insurer, recharges the administration and marketing expenses. Thus the prices paid by the farmers vary according to the company in which the insurance is contracted. In addition to competing on the costs of premiums, companies compete in two ways: (i) customer acquisition; and (ii) the quality and variety of the insurance services offered.

Poland. The Ministry of Agriculature and Rural Development concluded agreements with five insurance companies on the use of subsidies from the State budget for insurance premiums for agricultural crops or livestock. They are key insurance companies in Poland. However, the introduction of two new players in 2017 suggests that the market is open.

I.2.3 Potential trade-distorting effects on competition between undertakings.

A priori, there is no risk of competition inside the insurance market as all undertakings have access to the subsidized scheme. But there is a potential negative impact on competition and on trade between undertakings from various MS. By guaranteeing a less volatile income over time farmers may be encouraged to increase production more than they might have done if faced with a more volatile income. In the survey of MS, access to a subsidized insurance scheme was generally not seen as trade-distorting but there were some opposing views. As explained by a respondent, "MS with more financial resources can better support farmers with the payment of insurance premiums”. Therefore, the assumption of a moderate impact on trade and competition cannot be ruled out.

In addition, the State aid rules relating to insurance premiums do not allow classification of such aid in the WTO green box. Even if the aid intensity (65%) is in line with the WTO rules, State aid rules do not require a minimum level of losses prior to an intervention. The other reason is related to the obligation of recognition of an adverse event by a public authority prior to any intervention.

We did not find any studies allowing an analysis of this potential negative impact on trade and competition - not even with regard to the justification of the WTO rules to qualify insurance in the WTO green box (i.e. not having an effect on trade and competition). Such analysis of the effects of subsidies on the payment of agricultural insurance premiums is particularly complex to carry out for several reasons: (i) the diversity of insurance products and production covered; (ii) the difficulty of identifying a credible counterfactual, that is enterprises similar to beneficiary enterprises not having access to support in another MS; and (iii) the delay in identifying effects on trade and competition since potential effects are not expected in the short term.

However, the fact that the insurance uptake remains limited in both Spain and Poland despite public support and that the maximum aid intensity remains limited to 65% suggests that the negative effects on trade and competition remain limited.

The survey of competent authorities confirms this point of view: the negative effect on trade and competition is considered moderate. Two of eight respondents recognize a moderate distortion created by their cases *vis-à-vis* other MS and four out of the eight consider that the system set up by other MS may have a moderate distortion (see Annex 15 Table 34).

5.3 To what extent are the rules for the aid efficient with regard to the procedure for obtaining SA clearance? (EQ3)

5.3.1 Approach

Rationale and coverage. Various (agricultural) SA instruments are available to enable MS to obtain SA clearance depending on the beneficiaries targeted, the country context and the type of measure selected. The block-exemption procedure allows faster implementation but competent authorities take the responsibility for implementing the aid scheme. Using the agricultural GL takes more time but offers the security of having State aid explicitly approved by the Commission.

Therefore, the EQ aims to understand which clearance instruments are preferred by MS, which factors are important in making their decisions on using one or the other (agricultural or other) SA instruments and whether the procedures stipulated by the agricultural SA framework allow an efficient process (i.e. resources employed are appropriate and in relation to the results achieved).

The EQ includes the following sub-question: do MS opt for *ex ante* framework schemes or for case-by-case aid measures following the occurrence of the event concerned and what are the considerations steering their choices? This sub-question aims at understanding how aid schemes are being used. A scheme can be introduced *ex ante* to an event (i.e. before a precise event occurs), and offers a broader framework in which to react when an event occurs. Case-by-case aid measures can also be *ex post*, and are established in reaction to the manifestation of an event. Hence, the sub-question aims at understanding which elements are guiding the MS to develop an *ex ante* or *ex post* case.

Judgement criteria. The following judgement criteria have been developed:

- JC.1 The block exemption and notification procedures allow for a quick decision in terms of preparation and the delay necessary to obtain clearance.
- JC.2 MS decisions to introduce a measure *via* ABER or *via* the agricultural GL are based on efficiency considerations.
- JC.3 MS decisions to opt for an *ex ante* framework scheme or for a case-by-case aid measures take into account efficiency considerations.

Methodology. An overview of the distribution of aid schemes between the different instruments and by type (*ex ante* or *ex post*) has been established based on the information retrieved from the State aid cases database (DG COMP) and a review of the Decision Letter to the MS (notified aid schemes at EU-28 level). These sources also allowed assessment of the time required for clearance by the Commission Services of notified aid schemes.

In the context of the eight case studies, interviews have been conducted with competent authorities collecting views on the motivation guiding the decisions related to the instrument or type of aid scheme, as well as on perceived delays relating to the preparation and approval of aid schemes. The online survey provided complementary information on efficiency considerations for MS not subject to the case studies.

5.3.2 Summary answer

EQ3: To what extent are the rules for the aid for undertakings active in the primary production of agricultural products efficient with regard to the procedure for obtaining SA clearance?

In particular,

do Member States opt for block exemption or notification and what are the considerations steering their choices?

do Member States opt for *ex ante* framework schemes or for case-by-case aid measures following the occurrence of the event concerned and what are the considerations influencing their choices?

Preparation time within the MS and the time required to obtain SA clearance is assessed to be of acceptable level for block-exempted and notified aid schemes. Competent authorities underlined that efficiency gains are noted for recurrent measures.

The average delay between notification and clearance is around 5 months, with some important variations. The time needed for clearance is strongly influenced by the quality of the notification form, and the need to obtain further clarification and information from the MS. The average time is longer for protected animals which is a newly introduced measure. For support related to animal diseases and plant pests, the average time is in line with the other measures, with high variability. In emergency situations the delay could be very short as, for example, in the H5N1 epizooty in France. For insurance support the average time requested to obtain clearance is lower than for other measures which suggests that the design of the rules is clear to MS authorities.

The statistics of notified and block-exempted aid schemes show the success of ABER procedures for the risk management measures. Notification is mainly chosen in order to extend the scope of the aid scheme to large undertakings active in the primary production of agricultural products. However, other important considerations can guide the decision as, for example, the need to answer to the specificities of the aid schemes (animal diseases) and to increase legal certainty *vis-à-vis* ABER.

Based on the review of the country case studies, *ex ante* schemes are clearly favoured by the competent authorities. Often such public interventions are foreseen in national legislation, so the framework of State aid exists and an *ex ante* scheme is allowed to be prepared when an adverse event occurs. Nevertheless, in some cases there is a need to address specific needs arising and thus to introduce *ex post* schemes. This is mainly related to animal diseases and plant pests. A review of the titles of the animal diseases/adverse climatic events aid schemes suggests that around 50 such schemes (approximately 30%) are specific to a given event and could therefore be counted as *ex post* schemes.

5.3.3 Analysis

JC.1 The block exemption procedure and notification procedure allow for a quick decision in terms of preparation and the delay necessary to obtain clearance.

I.1.1 Time requested for the preparation of the aid schemes analysed in the context of the country case studies.

Preparation time (i.e. time for a MS to prepare an aid scheme) is considered by the competent authorities as relatively short, but somewhat longer when it concerns a notification. Preparation time depends on the complexity of the aid scheme and, logically, this time is reduced for recurrent measures.

ABER preparation time for aid schemes covering new measures was on average between four and six months in the **Czech Republic**; however for recurrent measures it takes about one month. Also **Estonia** and **Finland** underlined the importance of "experience", which is the main factor in reducing the time necessary for the preparation of an aid scheme to the satisfaction of the Commission Services. Preparation time is also estimated at a maximum of one month.

However, for adverse climatic events the Estonian competent authorities find the application of the conditions of Art. 25 difficult, considerably increasing the administrative burden and delaying the disbursement of aid to beneficiaries. In particular, calculation of the aid amount is extremely time-consuming, since the calculations for eligibility must be made at the level of the individual beneficiary (ABER Art. 25(6)). Therefore, the conditions set do not support efficient implementation.

Contrary to its choice to use the notification procedure for forest pest damage (forest prevention and restoration support), **Finland** opted for the exemption procedure in the case of plant pests because all crop farmers fall within the category of SMEs and the exemption procedure is much simpler. The time involved in preparing this aid scheme was not excessive, in contrast to the much greater effort required to obtain approval for compensation for forest pest damage (forest prevention and restoration support) under the agricultural GL.

In **Spain** aid schemes covering adverse climatic events and animal diseases and plant pests are registered as ABER. The competent authorities assessed the time required to prepare an aid scheme as appropriate, but did not quantify it.

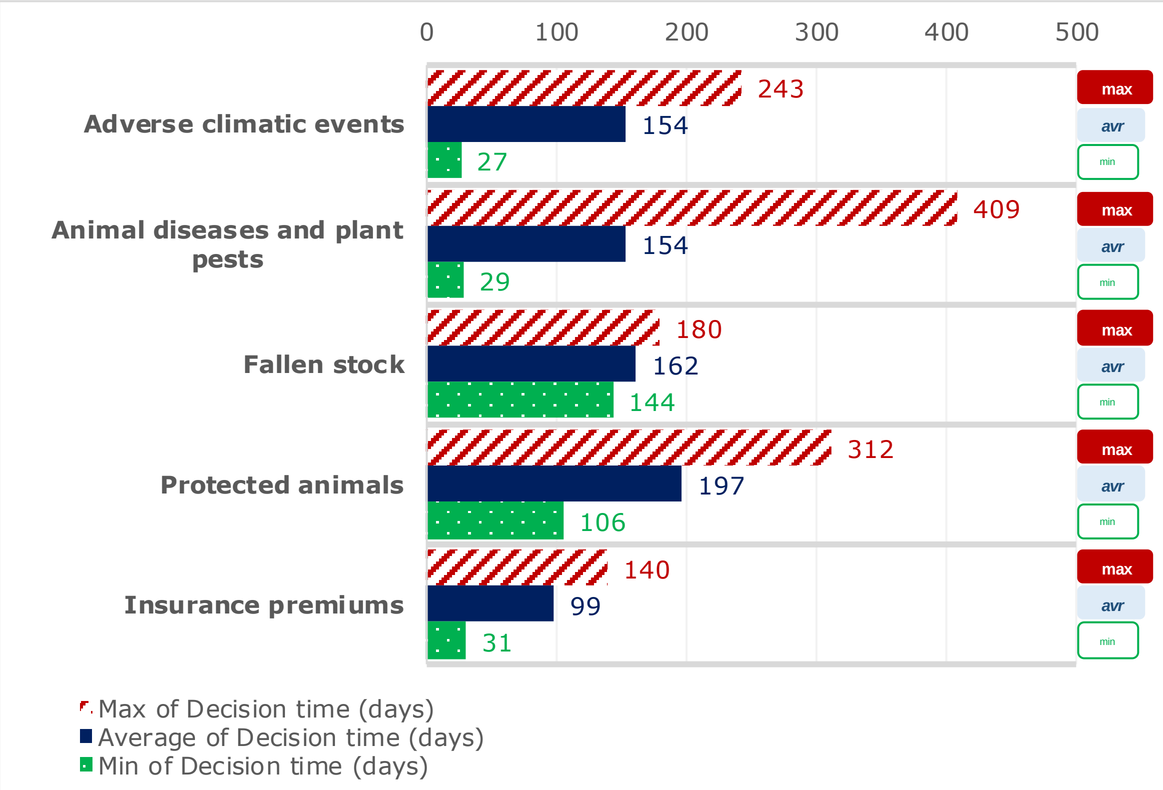
While the preparation procedure is more complicated in cases of notification (more administrative forms needed), the **Czech Republic** and **Finland** mentioned that preparation for the measures under review does not take that much more time as compared to the ABER preparation time. The **Estonian** competent authorities on the contrary underlined that significantly more time is necessary for the preparation of notified aid schemes related to a disease new to the country. Swift communication with the EC Services in the pre-notification phase can significantly speed up the process.

Clearance, however, usually takes around six months as several points need to be explained. Yet again for notification recurrent measures reduce the time needed for preparation at the level of the MS.

I.1.2 Time requested to obtain clearance for aid schemes analysed in the context of the country case studies.

Figure 13 presents the time required to obtain clearance for the **aid schemes notified** during the period under review covering one or more of the five risk management measures (at the level of the EU-28). During the period under review the **average time** between notification and clearance is **150 calendar days (5 months)**. This average time, however, is made up of large individual variations. Amendments of modifications to existing schemes require significantly less time for notification (less than 1 month).

Figure 13: Time required to obtain SA clearance, notification procedure (#days, EU-28)



Source: ADE, on the basis of a review of aid schemes (DG COMP)

Some differences are observed between the individual measures. The **average time** to obtain clearance for support for damage caused by protected animals is longer than for the other measures. This can be explained by the novelty of the measure and the questions raised by MS regarding fulfilment of the rules of the agricultural GL (see EQ1 and EQ3 I.1.1).

For animal diseases and plant pests, the average time requested is in line with the other measures but with significant variation. Sometimes the delay is very long and reflects the specificity of some State aid. On the other hand, the time delay is sometimes somewhat shorter as was the case in **France** for obtaining clearance during the H5N1 epidemic. Overall, it took 54 days despite the complexity of the aid scheme.

In **Estonia**, clearance of the notified aid scheme related to African swine fewer (SA.45613) took about two months (including the amount of time needed for preparation and for a pre-notification) which was considered very fast and appropriate. Indeed, in the case of animal diseases (and also plant pests), the competent authorities underline the importance of a timely response in order to avoid any further outbreaks (and damage) related to the respective disease. The delay is shorter for measuring support for insurance premiums. This is also a measure for which conditions are in line with needs (EQ1).

For the ABER, the EC Services have 10 days to react, otherwise the aid scheme is considered as cleared. In case of remarks by the EC services, the delay could be longer. According to the EC Services, remarks are raised in 50% of registered aid schemes. For example, in **Finland** the Commission raised concerns, after the aid scheme (SA.39928) was registered in SANI2 on 21 November 2014, that the Finnish Animal Health Act did not fully cover all the conditions[103] set out in ABER. After a series of exchanges the Commission subsequently published the summary information sheet on 4 March 2015, four months after its registration.

JC.2 MS decisions to use a measure *via* ABER or *via* the agricultural GL are based on efficiency considerations.

I.2.1 Mapping of decisions.

Based on the views collected from the competent authorities (case studies and online survey), **MS prefer as much as possible to use the block-exemption procedure**. This procedure is considered to be the simplest and the fastest.

In fact, during the examination period, 248 aid schemes[104] covering one of the five risk management aid measures were block-exempted (with 159 aid schemes covering animal diseases and plant pests) against a total of 35 notified. Sometimes MS introduce similar aid schemes using both instruments. The rationale is to have an aid scheme quickly in place on the basis of the block-exemption procedure, and a copy of the aid scheme *via* the notification procedure in order to include large enterprises for a specific support measure. This applies for example to the aid scheme in Poland (SA.41202) in respect to adverse climatic events. At the level of the EU-28, the agricultural GL/ABER ratio is 1:7 as regards the number of aid schemes.

Actual expenditures from aid schemes introduced between July 2014 and December 2016 covering one or more of the risk management measures amount respectively to €992.69 million for ABER and €2 100.23 million for the agricultural GL (this covers among other things disbursements of €553.43 million in favour of insurance premium support in Spain).

[103] Specifically, it did not explicitly show that the aid was limited to SMEs. In addition, it did not explicitly exclude the payment of aid to an undertaking subject to an outstanding recovery order, following a previous Commission Decision declaring an illegal aid. Moreover, it did not explicitly exclude aid to undertakings in difficulty unless the undertaking became an undertaking in difficulty due to losses caused by the occurrence of an animal disease. Following an exchange of letters with the Commission on these issues, the Finnish Ministry of Agriculture and Forestry agreed to amend the Animal Health Act to address these concerns.

[104] This excludes 93 block-exempted cases in Slovenia in support of insurance premiums, registered by municipalities. They represent a very small amount.

I.2.2 Main considerations invoked by competent authorities for explaining the decisions.

The efficiency concern (expressed as administrative burden) is the main reason for preferring the block-exempted procedure. MS even adapt aid schemes so that they would fit the ABER rules and can thus be block-exempted from the notification procedure. This has been the case for all measures under review (except for support for compensation for damage caused by protected animals which is not covered by ABER).

For example, in respect of support for adverse climatic events five out of seven survey respondents made modifications to the aid scheme to fit the exemption rules (mainly related to eligible costs). According to the **Estonian** competent authority, applying ABER for support in the case of adverse climatic events would considerably increase the administrative burden and delay disbursement of aid to beneficiaries. The calculation of the aid amount is considered extremely time-consuming. However, in rare cases, *de minimis* aid has been used. Also **Finland** decided explicitly to use the exemption procedure as much as possible. The competent authorities underlined that it would be administratively much more costly to handle compensation cases on an *ad hoc* basis rather than under an aid scheme in which standard rules can be set down and applied to each individual scheme.

The most frequently cited reason for using the notification procedure is to extend the scope of the aid scheme to large undertakings active in the primary production of agricultural products. This has been a major motivation in Germany, which notified an aid scheme providing support for adverse climatic events and prevention and restoration of forests from damage, as well as several aid schemes to provide support for animal diseases and plant pests. In France the notification procedure was used to support beneficiaries outside the zone concerned with the H5N1 epidemic and beneficiaries involved in the upstream value chain.

However, the need to include large enterprises is not the only reason for notifying an aid scheme. ABER conditions and rules –in particular for support for animal diseases and plant pests – were not always perceived as adequate, leading MS to use the notification procedure. This reflects what has been already mentioned in EQ1 regarding the difficulties in bringing the specificities of the aid schemes into line with ABER conditions.

In **Spain** stakeholders consider the conditions of the agricultural GL more adapted to the need for support to the insurance system. As subsidization of the insurance system in Spain has had a stable and continuous place in Spanish agricultural policy, it has been considered important to ensure **legal security** on a long-term basis by putting the support through the test of EC scrutiny. Under the agricultural GL framework it is the EC which declares the aid as compatible with the internal market. In the first year the aid is granted it has to be notified along with all the information required. In the second year only an extension request for the whole period is notified. Only if the expenditure exceeds the planned budget by more than 20% must the aid again be notified, but only for the increase in expenditure. Thus, once the system has been approved by the EC, the notification process is no longer that time-consuming, and the legal security that it provides outweighs the costs. Furthermore, the character of *ex ante* policy ensures that a financial plan of expenses is drafted, making it more suitable for the agricultural GL.

JC.3 MS decisions to select for an ex ante framework scheme or for a case by case aid measures take into account efficiency considerations.

***Ex ante* schemes are the preferred instrument for providing public support to compensate for damage caused by a given event** (adverse climatic events, animal diseases and plant pests, fallen stock, protected animals). Often such an *ex ante* scheme is foreseen at national level, offering a framework for State aid intervention when the adverse event occurs. This applies in **France**, where the competent authorities prefer *ex ante* schemes for adverse climatic events, animal diseases and plant pests. The objective is to be ready when an event occurs. Experience shows that the occurrence of climatic events associated with natural disasters are unpredictable but rather regular.

In the **Czech Republic**, most of the aid schemes supporting animal diseases and plant pests are designed as preventative measures (*ex ante*) in order to avoid eradication costs and several other impacts. Decision-makers and also farmers prefer to have prepared all key rules for aid provision before the disaster happens. For example, in the case of animal disease eradication, having determined the payment for the deceased animals these rules bring more certainty to farmers in times of crisis. Moreover farmers have a clear picture of how to proceed, what the next steps are and the possibilities for the future. Farmers are sure to receive the compensation (it is mandatory) and they do not tend to postpone the reporting of suspicious diseases which increases the capacity of the system to cope with future threats. Also **Poland** mentioned legal certainty as a reason for using *ex ante* schemes compared to *ex post* schemes. However, some *ex post* cases (schemes or *ad hoc* aid) have been introduced to address specific needs, all related to animal diseases and plant pests.

Nevertheless, in some cases there is a need to meet specific needs and thus to introduce an *ex post* scheme. This is mainly related to support for adverse climatic events and animal disease and plant pests. A review of the titles of such aid schemes targeting one of those two measures suggests that around 50 aid schemes (approximately 30% of all schemes targeting adverse climatic events and animal disease and plant pests) are specific to a given event and could therefore be counted as *ex post* aid schemes.

The survey confirmed the mixed approach used by over 40% of MS, for example with regard to animal diseases and plant pests.

Figure 14: Use of *ex ante* and *ex post* schemes by MS to provide support related to animal diseases and plant pests

Source: ADE, survey conducted among competent authorities at the level of EU-28.

In **Spain**, as most of the support regarding risk management is provided through agricultural insurance supported by State aid, there are a number of measures designed to cover specific events such as the aid scheme introduced to compensate for losses caused by the 2015 drought in Baleares.

6. THEME 2: AID FOR THE FORESTRY SECTOR

The EU has developed a strong involvement in forest-related policies. Forest-related activities are coordinated with MS largely through the Standing Forestry Committee. Forestry measures are mainly co-funded through the RDP. Investments in the forestry sector are limited to operations prior to industrial processing. The RDR and the agricultural SA instruments do not apply to forest-based industries. State aid rules apply to all measures outside the scope of Art. 42 of the Treaty (see section 1.2).

Theme 2 concerns more specifically two forestry support measures, namely:

- Prevention and restoration of damage to forests (ABER Art. 34; agricultural GL S.2.1.3) which corresponds to two different RD measures (respectively RD measure 8.3 and RD measure 8.4); *and*
- Investment in forestry technologies and in processing, mobilising and marketing of forestry products (ABER Art. 41; agricultural GL S.2.1.5) (hereinafter "forestry investment measure") corresponding to RD measure 8.6[105].

Theme 2 includes three EQs related to the relevance of State aid rules with regard to the needs to obtain SA clearance for the underlying co-financed RD measures or top-ups (EQ4); the effectiveness of those rules with regard to the effect on competition and trade within the internal market (EQ5); and the coherence of the rules with those for the underlying co-financed RD measures or top-ups (EQ6).

6.1 To what extent are the rules for the aid relevant with regard to the need to obtain SA clearance for the underlying co-financed rural development measures or top-ups? (EQ4)

6.1.1 Approach

Rationale and coverage. This EQ concerns the two forestry measures selected for this evaluation. Support is provided either as part of a RDP or financed exclusively from national resources (pure State aid), but in the form of a RD-like forestry measure (i.e. based on the RDR, RD measures 8.3, 8.4 and 8.6).

A sub-question concerns the use of the various available options for obtaining SA clearance by MS. Currently, State aid can be granted either through the agricultural SA instruments, or through the general *de minimis* aid. GBER can only be used as far as SMEs are concerned.

Judgement criteria.

- JC.1 MS used the available options to obtain SA clearance.
- JC.2 The legal framework is adequate and supports competent authorities in making well-informed decisions.
- JC.3 Conditions, eligible costs and aid intensity are adequate.

Methodology. Answering the EQ rests on a qualitative approach combined with quantitative data on the use of the different SA instruments (from DG COMP and collected *via* the case studies) and the results from the online survey. An overview of the use of the different possibilities for SA clearance is established at EU level (ABER, agricultural GL) and in more detail at the 8 CS MS level. A comparison is made of the use between the study period and the reference period.

Feedback from the competent authorities in the MS (online survey at EU-28 level or at the level of 8 CS MS) provides information on the reasons for the decisions and the response to the needs of the SA instruments in terms of SA clearance.

6.1.2 Summary answer

EQ4: To what extent are the rules for the aid for investments in the forestry sector relevant

[105] It is actually a combination of two separate RD 2007-2013 measures, namely improvement of economic value of forests (RD measure 122) and processing and marketing of forestry products (RD measure 123).

with regard to the needs to obtain SA clearance for the underlying co-financed rural development measures or top-ups?

The rules for the aid for the two forestry measures namely i) prevention and restoration of damage to forests and ii) investments in forest technologies and in processing and marketing are relevant given the need to obtain SA clearance. The integration of these measures under ABER represent an important simplification in clearing State aid widely used in the EU-28 for RD measures as summarized hereunder.

Forestry measures are used by a large majority of MS (24 out of 28). Owing to this extensive use, there is a considerable demand to obtain SA clearance. Forestry measures are mainly implemented through the RDPs, they are foreseen in 65-75 RDPs (out of 109). Two MS implement forestry measures outside the RDP at national level, namely Finland and Ireland; for France, Germany and Italy there are few regions (1-5) that support RD-like measures. However, in terms of expenditures, there are differences between the amounts declared by MS in SARI and the data in RDPs.

State aid is mainly granted for the prevention of damage to forests and in particular forest fires. In the CS MS support is mainly provided for measures to prevent forest fires and to a lesser extent for the fight against some main pests (root rot, bark beetle, cochineal of maritime pine). Restoration is foreseen in several MS and was used by three MS (Estonia, Italy, and Spain) during the examination period due to storm and forest fires; this is coherent with the planned budget. Investments in forestry technologies are also largely foreseen in RDPs, but with little expenditure up until the end of 2016. In fact, more than 90% of current expenditure concerns the prevention of damage to forests (keeping in mind the that data reported by MS on expenditure in SARI do not completely reflect RD expenditures).

MS have used in particular **the block-exemption procedure**, which is available only for support included in a RDP (66 block-exempted aid schemes at EU level). Use of the agricultural GL concerns mainly RD-like measures with 14 notified aid schemes at EU level. The *de minimis* is still used for example when rules of the GL are too cumbersome (especially regarding beneficiaries, for example rural municipalities).

Overall, there is widespread satisfaction with ABER (less with the agricultural GL). Block-exempted aid schemes cover a wide range of situations in MS, ranging from a single aid scheme for one RD measure in a region[106] to a national aid scheme covering 5 RD forestry measures in all 17 Spanish regions. For block-exempted aid schemes, DG AGRI undertakes an *ex ante* check of the documents sent via SARI. This *ex ante* check and additional DG AGRI advice is not always well understood by some MS (the Czech Republic, Italy) which consider that the questions on State aid were already being addressed through RD programming. However, the legal basis for funding is not necessarily finalised at that stage.

Aid schemes are mainly notified because the support is outside a RDP for RD-like forest measures, notably in decentralised MS. These MS notify an "umbrella aid scheme" for all their regions. Other motivations to adapt ABER conditions are less frequent. In some decentralised MS the national notification for SA clearance for all regions took some time and in the meantime regions used block-exempted measures to be able to fund preventative actions in particular prevention from forest fires.

Rules include the scope, definition of beneficiaries, aid intensity and eligible costs as well as the procedure at the level of the EC. Overall the rules are adequate. However the following constraints have been highlighted by the MS: (i) for restoration of damage to forests, the concept of "destruction of at least 20% of the relevant forest potential affected" is not clear (Germany, Estonia); (ii) in terms of beneficiaries, while they are identical between ABER, the agricultural GL and the RDR, difficulties arise from the requirements (documentation and counterfactual analysis) relating to large enterprises as applied to some entities that are not SMEs (such as rural municipalities and national parks) (see also EQ10).

[106] e.g. IT-Tuscany has a registered case for each RD measure prevention of damages to forests (8.3), restoration of damages to forests (8.4) and investment (8.6).

6.1.3 Analysis

JC.1 MS have used the available options to obtain SA clearance.

I.1.1 Use of ABER and agricultural GL.

Use of both forestry measures at EU level

Based on the review of aid schemes covering the forestry measures within the evaluation scope, **only four MS do not use agricultural State aid to provide support for these forestry measures**. They are the Netherlands, Luxemburg and Malta – which have the smallest wooded areas in the EU-28 (see section 2.2) - and Romania. Four other MS (Bulgaria, Cyprus, Greece and Lithuania)[107] did not submit a block-exempted aid scheme by the end of 2016[108] while having forestry measures in their RDP.

Indeed, **forestry measures are mainly implemented through national or regional RDPs**. Of the 109 RD measures 8.3, 8.4 and 8.6 are respectively included in 60, 65 and 75 RDPs[109] (see Table 29). Only Finland and Ireland implement forestry measures outside the national RDP. In France, Germany and Italy there are between one and five regions[110] that also support forestry but outside an RDP with RD-like measures. In these decentralised MS, a national notified aid scheme allows coverage of all RD-like measures, to be sure that State aid could be granted over all the territory including in the regions where no RD measures are planned.

RDP implementation started only recently (most RDPs obtained approval in 2015) with few expenditures recorded for the period under review. During the examination period, there were 80 aid schemes at EU-28 level for the two forestry measures, of which 14 were notified and 66 block-exempted. Specific expenditures related to those two forestry measures **indicatively** amount to €65.4 million; 94% of the expenditures concern prevention and restoration of damage to forests, the remainder concerns the forestry investment measure.

It must be underlined that there are discrepancies between the amounts declared by MS in SARI and data from 2016 AIR of RDPs, especially in decentralized MS[111]. Hence expenditures related to the specific measures under review are based on data transmitted by DG COMP as well as some amendments provided by RDP managing authorities, in close collaboration with the country experts.

Table 29: Use of forest measures in RDPs

	National RDP				Regional RDPs					RD- like not in RDP
	8.3	8.4	8.6	No measure	Number of regions	8.3	8.4	8.6	No measure	
Austria		x	x							
Belgium					*2*	0	0	1	1	
Bulgaria	x	x	x							
Croatia			x							
Cyprus	x									
Czech Republic	x	x	x							
Denmark		x								
Estonia	x	x	x							
Finland				x	*2*	0	0	0	2	x
France					*27*	10	12	26	1	x
Germany					*13*	3	6	2	5	x
Greece	x	x	x							

107 All have prevention of damage from forests (RD measure 8.3) whereas restoration (RD measure 8.4) and forestry investments (RD measure 8.6) are present for Bulgaria, Greece and Lithuania.
108 Bulgaria for instance has a bock-exempted case (SA.50791) since 16 April 2018 for RD measure 8.3.
109 In total, there are 118 RDP out of which 109 are related to all RD measures, nine other RDPs have crosscutting objectives especially in decentralized MS (e.g. the National Programme of risk management and technical assistance (PNGRA) and National Rural Network Programme in France).
110 Notably Pays de la Loire, Bavaria, Friuli Venezia Giulia.
111 The amount from DG COMP (scoreboard) rests on data from SARI filled in by MS.

	National RDP				Regional RDPs					RD- like not in RDP
	8.3	8.4	8.6	No measure	Number of regions	8.3	8.4	8.6	No measure	
Hungary	x	x	x							
Ireland				x						x
Italy					*21*	17	15	18	1	
Latvia	x	x								
Lithuania	x	x	x							
Luxembourg				x						
Malta				x						
Poland										x
Portugal					*3*	1	2	2	1	
Romania				x						
Slovakia	x	x	x							
Slovenia			x							
Spain					*17*	16	15	12	1	
Sweden		x								
The Netherlands				x						
United Kingdom					*4*	4	4	4	0	

Source: ADE, based on review of RDP

Aid for the prevention and restoration of damage to forests

Aid for prevention and restoration of damage to forests is used by 18 out of 28 MS. During the examination period, MS established 47 block-exempted and 12 notified aid schemes providing this support. Indicative expenditures during the examination period amount to €61.3 million (see Table 30). According to the evaluation study on forestry measures under RD[112], the largest share of the budget for prevention and restoration was allocated by the Mediterranean countries and in particular for protection and restoration of damage from forest fires.

Table 30: Number of aid schemes and SA expenditures for prevention and restoration of damages to forests (07/2014-12/2016)

MS	07/2014-12/2016				
	Number		Expenditure (€ million)		
	GL	ABER	GL	ABER	Total
Austria		1		0.07	0.07
Belgium		1		-	-
Bulgaria					
Croatia					
Cyprus					
Czech Republic		4			-
Denmark	2		1.58		1.58
Estonia		1		0.16	0.16
Finland	1		8.40		8.40
France	2	6	0.09	2.22	2.30
Germany	3	7	0.34	3.08	3.42
Greece					
Hungary		1			-
Ireland	1		0.45		0.45
Italy	2	13	-	18.43	18.43
Latvia		1		0.05	0.05
Lithuania					
Luxembourg	No support				
Malta	No support				
Netherlands	No support				

[112] EC, 2017. Evaluation study of the forestry measures under RD, p.31-33; planned public expenditure at EU-28 level for RD measure 8.3 prevention is €1 586 million and 8.4 restoration is €759 million.

MS	07/2014-12/2016				
	Number		Expenditure (€ million)		
	GL	ABER	GL	ABER	Total
Poland	1		5.84		5.84
Portugal		3		0.60	0.60
Romania	No support				
Slovakia		2		15.05	15.05
Slovenia		1			-
Spain		1		-	-
Sweden		1			-
United Kingdom		4		4.94	4.94
TOTAL 8 CS MS	9	32	14.67	23.89	38.56
TOTAL EU-28	12	47	16.71	44.59	61.30

Source: ADE, based on data from DG COMP

In the 8 CS MS, 32 out of 41 aid schemes were block-exempted, and thus covered measures included in the RDP. Italy, Germany, France and the Czech Republic introduced several block-exempted aid schemes, while Spain and Estonia block-exempted only one aid scheme each. Total expenditure amounts to €38.56 million (8 CS MS), mainly in Italy (€18.4 million), Finland (€8.4 million) and Poland (€5.8 million). As shown in the table above, expenditures are smaller in Germany, France and Estonia. No expenditure is reported during the examination period for the Czech Republic and Spain[113].

Italy has only aid schemes at regional level. There are 13 block-exempted aid schemes and two notified aid schemes (one in Lombardy and one in Emilia-Romagna). Lombardy notified its aid scheme because the forestry measures are not in the RDP. Contrary to Italy, **France** has two notified aid schemes at national level providing aid for the prevention from forest fires based on RD-like measures only. This is complemented by six regional ABER aid schemes[114] providing such support defined in the respective RDPs.

Germany has two national and one regional (Bavaria) aid scheme, as well as several regional ABER aid schemes[115]. One of the national aid schemes is an *ex ante* scheme covering natural disasters and adverse weather conditions which can that can easily be activated if an event occurs. The notified aid scheme for Bavaria is specific: (i) the region no longer supports forestry with EAFRD funds, so RD-like; and (ii) they support a forestry measure not covered by the national notified aid scheme.

Spain has one block-exempted aid scheme covering all 17 Spanish regions and their RDPs for five different measures (Arts. 32, 33, 34, 35 and 41). Expenditures recorded do not concern forestry prevention and restoration contrary to information provided in the 2016 RDP AIRs.

Poland has one notified aid scheme strictly limited to the prevention of forest fires. It is co-funded under the Cohesion Fund. It is a RD-like measure, not included in the Polish RDP. The aid scheme is for a unique beneficiary, being the national forest holding "State Forests", which is a national forestry management agency that manages State-owned Polish forests on behalf of the Polish State Treasury and under the supervision of the Minister of Environment. This concerns some 77% of a total of 9 million hectares of forests in Poland.

The measures have been used for very specific actions in the different CS MS, listed hereunder.

- **Prevention of forest fires** includes the renewal of forest fire detection sensors and associated control software (Germany (Brandenburg), Poland); support for automatic forest fire detection systems (Germany (Saxony), Italy (Tuscany)); the rehabilitation of forest tracks, including the rehabilitation of bridges, culverts and fords, insofar as they are included in the forest fire protection and the precautionary plan, both for private

[113] The Spanish competent authorities declared no expenses under SARI for their ABER case SA.43021 for Art. 34 (prevention from forest fires and plant pests and restoration) and Art. 41 (investments). This ABER case covers all autonomous regions and five different RD measures for forestry. Expenditures related to other measures (not in the scope of the evaluation) amount to €119 million. The information provided in the 2016 AIR RDPs is different, with expenditures for these measures in notably in Galicia and Castilla del Mancha but also in other regions.

[114] Languedoc Roussillon (€980 000), PACA (€960 000), Rhône Alpes (€1.42 million) and Aquitaine (€250 000).

[115] In Baden Württemberg, Brandenburg, Nord Rhein Westfalen, Saxony (3 - one of them is actually a double count, there are 2 exemptions in Saxony) and Thüringen.

and State forest (Germany (Brandenburg), Poland, Estonia); fire access trails including specific infrastructure, water supply for firefighters and firewalls (France); installation of extinguishing water extraction points (Germany (Brandenburg), Poland); installation and extension, as well as maintenance and repair, of forest fire protection systems (Germany (Brandenburg), Poland); areas supporting rescue work (Poland); and establishment of a campfire and educational resting place for the protection of forest land under fire hazard class I (Estonia).

- The main **prevention measures for plant pests** in CS MS and the regions included the prevention of **bark beetle** in Germany, which is mandatory. Hence, only activities larger than the regulatory obligations can be supported. The national notified aid scheme provides support for wood preservation plants (wet storage of the wood) in order to prevent propagation of the bark beetle following calamities and to avoid widespread use of insecticides. In Bavaria other prevention measures are covered, namely only mechanical measures (debarking, rubbing or removal to storage places). Prevention measures against **root rot** in Finland and Estonia include automatic treatment with a urea solution or with a preparation made from the fungus in connection with harvesting. Furthermore, Estonia also covers the purchase and use of repellents (for pine weevil).
- Concerning **restoration of forests**, **damage is mainly caused by storms**. In **Germany** (Baden Württemberg), the restoration measure (not used yet) only foresees support for storing wood if the wood market collapses following an adverse climatic event. In **Italy** (Tuscany), the restoration measure concerned "reconstitution" of forest potential *(replanting of native species*) of damage from storm and cochenilla of maritime pine. In **Estonia**, the restoration measure was used following a heavy storm. The following activities were supported: (i) elimination of damage: removal of trees damaged by storm; (ii) restoration of damaged forest: preparation of the ground, acquisition of forest plants and planting. According to the request of the applicant, support was limited only to preparing the ground to contribute to natural regeneration of the forest; and (iii) maintenance of regeneration of up to three-year-old forest, that is removal of low-value species and weeds.

Aid for investment in forestry technologies and in processing, mobilising and marketing of forestry products

While forestry investment support is foreseen in a large majority of RDPs (75 for 17 MS)[116], only 14 MS introduced an agricultural aid scheme during the examination period (32 block-exempted and 2 notified aid schemes). In addition, **State aid expenditure during the examination period was very limited.** By the end of 2016 expenditure was declared for 14 out of the 34 aid schemes providing this aid, corresponding to a total level of expenditure of €4.1 million for the investment support (see Table 31).

According to the evaluation study of forestry measures under RD, planned expenditure for this type of investment support amounted to €825 million during the period 2014-2020. Consequently, the table below covering expenditures only for the examination period is not quite representative in terms of use.

The **8 CS MS** have almost exclusively used the block-exemption procedure (only one notified aid scheme). Italy, the Czech Republic, Spain and Germany introduced several block-exempted aid schemes. In **Germany,** for example, only two regions use the forestry investment measure, namely Baden-Württemberg (financing exclusively soil-friendly harvesting techniques) and North-Rhine-Westphalia (resource efficient processing and marketing). The other regions cover this need through the private market (after having received support since 2000). **France** notified one national aid scheme covering all RDPs (in the former regions) and RD-like measures. However, Rhone-Alpes introduced a block-exempted aid scheme for its RDP-related measures.

In **Estonia** only small items of equipment (e.g. chainsaws) are supported for maintenance, with the objective of improving the economic value of the forest. A large number of

[116] Investment support is provided by 17 out of 28 MS in their RDPs. In decentralized MS, support may differ between regions. As mentioned, some MS introduced the exemptions after 2016 and do not appear in the figures yet.

beneficiaries were supported for small unit amounts at around €3 000/applicant. Finland and Poland did not use this measure during the examination period.

Expenditures have been registered mainly in Italy (€1.86 million), Estonia (€0.8 million) and to a smaller extent in Germany (€0.3 million) and the Czech Republic (€0.02 million). No expenditure was registered by the end of the financial year 2016 for investment support in France and Spain through the DG COMP scoreboard. Some 2016 AIR of RDPs did however report on expenditures for these two MS.

Table 31: Aid schemes including investment in forestry technologies and in processing in EU-28 (number of aid schemes and expenditure)

MS	07/2014-12/2016				
	Number		Expenditure (€ million)		
	GL	ABER	GL	ABER	Total
Austria		1		0.04	0.04
Belgium		1		-	-
Bulgaria					
Croatia		1			-
Cyprus					
Czech Republic		5		0.02	0.02
Denmark					
Estonia		1		0.81	0.81
Finland					
France	1	1		-	-
Germany		2		0.30	0.30
Greece					
Hungary		1			-
Ireland	1				-
Italy		9		1.86	1.86
Latvia					
Lithuania					
Luxembourg	No support				
Malta	No support				
Netherlands	No support				
Poland					
Portugal		2			-
Romania	No support				
Slovakia					
Slovenia		1			-
Spain		3		-	-
Sweden					
United Kingdom		4		1.08	1.08
TOTAL 8 CS MS	1	21	-	3.00	3.00
TOTAL EU-28	2	32	-	4.11	4.11

Source: ADE, based on data from DG COMP

I.1.2 Use of ABER and agricultural GL compared with the reference period.

Since the extension of the scope of ABER with both forestry measures, the block-exemption instrument has been widely used by the MS. This is particularly the case for regions in decentralised MS. As highlighted, ABER did not cover these forestry measures. In particular, prevention and restoration support was only covered by the agricultural GL, while the forestry investment measure was not included in the agricultural SA framework at all.

When comparing the number of aid schemes for the prevention and restoration of damage to forests, an increase was observed from 44 notified aid schemes during the reference period to 59 aid schemes (47 block-exempted and 12 notified) over the 2.5-year examination period (see EQ10). This shows the importance of the block-exempted scheme, the operation of which steadily increased over the period 2014-2016.

This observation has been confirmed by the **French** competent authorities. Since the entry into force of the current ABER, six regional block-exempted aid schemes have been introduced, all for prevention against forest fires. Finalised interventions with expenditure between 2014 and 2016 are rather low, but at the end of 2016 a real increase in committed interventions was noticed[117].

It is not possible to compare the use of the agricultural SA instruments related to the forestry investment measure with their use during the reference period, given that this measure was not previously covered by the respective instruments. However, the large number of block-exempted aid schemes since the entry into force of the current ABER shows the interest of the MS in using this procedure for SA clearance. This is confirmed by the competent authorities of the CS MS.

I.1.3 Use of the general de minimis.

During the reference period, MS (France, Italy, Germany, and the Czech Republic) declared their use mainly of the general *de minimis*[118] aid for forestry support, even if it was not the most adequate instrument. Despite the inclusion of the forestry measures in the agricultural SA instruments, MS continued to use the general *de minimis*[119] during the examination period.

In **Germany,** the general *de minimis* is still largely used for municipalities in regions with RD-like measures, in order to avoid the description of a counterfactual situation, as even small municipalities are considered to be large enterprises. **Italy** however highlights constraints in the general *de minimis* regarding the concept of "single undertaking" which is hardly applicable to the forestry sector. **Finnish** authorities, on the other hand, did not use the general *de minimis* to compensate operators for treatment to prevent the spread of root rot, while this was recommended by the Commission Services. The reason given was, in the case of forest holders, the absence of a central register monitoring the aid provided, and thus the difficulty of demonstrating that a beneficiary has not received more than €200 000 of aid in a three-year period.

The registration of such support is done at the level of the beneficiary, not by type of support measure. This method of registration does not allow an overview of the amount of expenditures and number of beneficiaries per forestry measure under review.

JC.2 The legal framework is adequate and supports competent authorities in making well-informed decisions.

I.2.1 Adequacy of the rules in the legal framework.

Overall, clear guidance is available for ABER. Interviews with Commission Services showed that during the examination period comments were provided for block-exempted forestry measures in half of the aid schemes. This is partly linked to each new regulation that needs a common interpretation of concepts. There was a learning process especially for new RDP managing authorities (e.g. MS that joined the EU more recently) but also in decentralised MS (e.g. French regions[120]). Although discussions on State aid take place during the RDP programming involving RDP managing authorities and the Commission, the legal basis for support is not necessarily finalised at that stage.

Several MS (Estonia, Germany, France, UK)[121] underline the rigid application of the seven common assessment principles to the forestry sector in the event of notification. Forestry

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[117] For example: (i) Languedoc-Roussillon, RD measure 8.3.1: only two operations were paid on 31/12/2016, but 84 cases were committed at the same date; (ii) Aquitaine, RD measure 8.3: 22 operations were achieved on 31/12/2016 (operations launched in 2014 for most of them), but 211 operations were committed at the same date. The start was slowed down by some difficulties in the transfer of skills and by the development of tools (for example, in Aquitaine, the payment of some operations has been postponed for 2 years, in 2015 and 2016, because the payment software "OSIRIS" had a delay in its development).

[118] Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Art. 87 and 88 of the Treaty to de minimis aid.

[119] Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Art. 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid.

[120] In **France**, the context is specific due to the recent decentralisation. State aid for forestry was managed centrally until 2013. Since 2014, State aid management has been delegated to the decentralized entities, the "Regions", which have taken over this management. For notified aid under the agricultural GL, the Ministry of Agriculture (MAA) makes the request to the Commission. For registered aid under ABER, the requests are elaborated directly within the regions, sent to the MAA who checks the compliance with the regulatory framework and transmits the requests to the Commission.

[121] The agricultural GL are perceived by the **Estonian** competent authorities as a complex and theoretical document that does not simplify procedures; the rules do not clarify all requirements of a measure in order to be cleared under State aid. The **United**

measures supported outside an RDP have to be notified. Compared to the reference period, these common assessment principles are now made explicit. The way in which they are applied makes notification cumbersome (see EQ10).

I.2.2 Competent authorities make informed choices for using a specific State aid instrument.

MS take well-informed decisions on the selection of the State aid instrument, taking into account the rules and procedures. In particular, in decentralised MS where regions are responsible for forestry measures, a variety of combinations are observed, ranging from one notification covering all regions of a given MS for several RDP forestry measures to a registration of separate aid schemes for each single RD measure for single regions.

As outlined before, **Germany** notified "umbrella" aid schemes at national level, while leaving the opportunity to the respective regions to include or not include forestry measures in the regional RDP. While all regions with the exception of "Stadtländer"[122] fund forestry measures (some outside the scope of the evaluation), some German regions do not fund forestry in a RDP owing to the significant administrative workload compared to the small amount of expenditure.

If there was a delay in the preparation of the national notifications, regions of these MS used block-exempted aid schemes in the meantime (notably for prevention of forest fires) to be able to fund support. This has been the case in **France**, where regions, besides the national notified aid schemes, developed a block-exempted aid scheme in order to fund preventative measures during the period in which the national notification was still under preparation and clearance[123]. Moreover, they underlined that the main reasons for using ABER are its ease and ready-to-use nature, especially for sensitive issues such as forest fires.

Spain used a block-exempted aid scheme for all regions, meaning that all autonomous regions include forestry measures in their RDP (and do not fund RD-like measures).

Finally, in some decentralised MS, regions used a block-exempted aid scheme for each individual RD forestry measure while others grouped together some or all forestry measures. This mixed approach is found in **Italy**, which has 22 block-exempted aid schemes (13 for prevention and restoration, 9 for investments) at the level of regions and two notified aid schemes. Actually regions had different approaches: (i) some set up a specific ABER aid scheme for each individual RD measure (RD measures 8.3, 8.4 and 8.6) (Tuscany, Sicily); (ii) others presented an aid scheme for prevention and restoration (RD measures 8.3 and 8.4 together) and another one for investment (RD measure 8.6) (Lombardy, Veneto); and (iii) one group prepared an aid scheme for all three RD measures (8.3, 8.4 and 8.6) together (Bolzano, Campania).

JC.3 Conditions, eligible costs and aid intensity are adequate.

I.3.1 The type of beneficiaries for forestry measures is not a constraint on obtaining SA clearance.

Beneficiaries of the forestry sector are specific, they are presented in Table 32 below. They only cover the forestry sector prior to industrial processing.

Table 32: Beneficiaries of the forestry measures

Prevention and restoration of damages to forests (ABER Art. 34, agricultural GL S.2.1.3)	Investment in forestry technologies and in processing, mobilising and marketing (ABER Art. 41, agricultural GL S.2.1.5)
Private and public holders **Other private law and public bodies and their**	Private holders Municipalities and their associations and to SMEs

Kingdom considers the notification forms are of no use as they need to be supported by vast quantities of explanatory material to enable the Commission to consider the case (general comment on simplification GL). Source: (online survey)

122 Bremen, Hamburg, Berlin.

123 A first agricultural GL was notified in June 2015, but it concerned only RD-like measures. The agricultural GL for RD measures had some delays and was notified in September 2016 only. The regions with risks for forest fires set up cases under ABER in the meantime.

associations	

Source: ADE, based on ABER and agricultural GL

It must be recalled that the definition of beneficiaries for forestry measures based on the RD provisions evolved over the two periods (2007-2013 and 2014-2020)[124]. In fact, during the reference period support was limited to forests owned by private owners or municipalities with some additional limitations on the beneficiary. For the period 2014-2020, distinctions are made between the ownership on the one hand and the entity managing the forest on the other. Hence the **main objective of both support measures is to provide support to the person or entity managing the forest**[125]. The term "private forest holder" refers to a private entity managing land of unspecified ownership, the word private referring to the holder, not to the forest.

Municipalities are potential beneficiaries of both support measures. They are explicitly mentioned for forestry investment support, but they are also included implicitly under the concept of "public holders" or "public bodies" under prevention and restoration of damage to forests. However, other public holders are excluded from the investment support in order to limit the risk of market distortion.

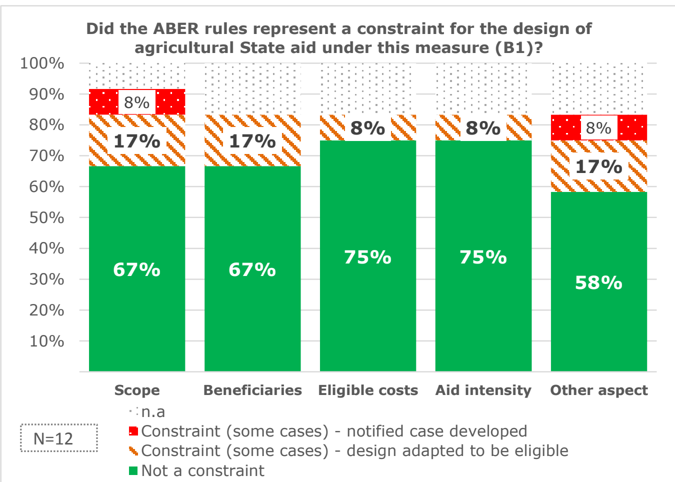
Beneficiaries are strictly the same in ABER, the agricultural GL and the RDR. Although they are strictly identical, difficulties arise from the application of the rules related to large enterprises in the case of notification (for support of RD-like measures). Large enterprises are entities with more than 250 employees, €50 million turnover or an annual balance sheet of more than €43 million. All entities that are not an SME[126] are also considered "by default" as large enterprises. Entities covered by default have to provide all supporting elements that are needed for large enterprises, which is a complex requirement.

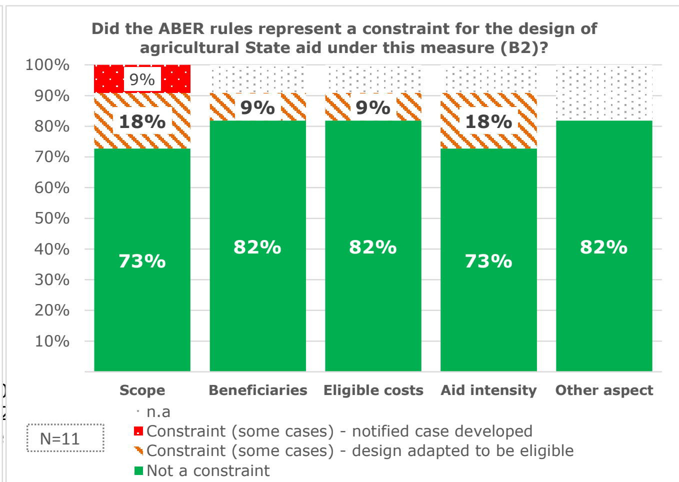
Some MS consider municipalities (regardless of their size) to be large enterprises because they are not SMEs and thus subject to a description of a counterfactual situation. This latter issue is mentioned notably in Germany. Owing to this constraint, some German municipalities use *de minimis* aid. Others go for a counterfactual description but this leads to complexity at the level of competent authorities. Some MS do consider rural municipalities to be SMEs.

I.3.2 The rules (scope of the measure, aid intensity and eligible costs) are not a constraint on obtaining SA clearance.

The vast majority of survey respondents in MS who registered State aid under ABER consider that its rules do not constitute a particular constraint on the design of agricultural State aid. In fact, eight out of 11 respondents consider that the different ABER rules do not represent a constraint on the design of State aid (see Figure 15). Nevertheless, one or two respondents mentioned the scope of ABER (for both measures) as a constraint which necessitated amending the design of the aid scheme or choosing notification of a scheme under the agricultural GL. Also, the types of beneficiary (mainly for prevention and restoration of damage to forests) and the aid intensity (mainly for forestry investment measures) under ABER were identified as constraints by some respondents.

Figure 15: Opinion on particular constraints of ABER rules in designing agricultural State aid





Source: ADE, survey conducted among EU-28 competent authorities

In this respect, the competent authorities asked for possible improvements to ABER with potentially positive impacts, namely:

- enable the use of ABER for forestry aid schemes which are pure State aid outside the RDR (for both measures);
- include the approval of the aid scheme in the approval of the RDP (prevention and restoration);
- use different aid intensities between private and public forests (investment measure).

The online survey confirmed the limited use of the agricultural GL for forestry measures. Respondents confirmed that the use of agricultural GL was guided mainly by the fact that forestry measures were envisaged outside a RDP. One MS (Poland) also highlighted that the agricultural GL were used to grant aid as a part of a thematic operational programme co-financed from EU funds (infrastructure and environment; prevention and restoration measure). Finally, Denmark highlighted the legal certainty as a reason for using the agricultural GL as well as prolonging a previously-approved aid scheme (investment measure).

In addition, the **case studies** highlighted the following constraints:

- Regarding eligible costs and aid intensity concerning prevention and restoration, several MS indicated that they were adequate (Germany[127], Poland), corresponding to the needs expressed in the RDPs (France), or did not raise any issues during the period concerned (Finland).
- In Estonia and Germany, however, as regards restoration from damage, a problem was raised in respect of the unclear specification of the expression “forest potential” cited both in ABER Art. 34 § 8(b) and in the agricultural GL (522): for restoration, 20% of the forest potential has to be affected, but it is not clear how this potential is determined (growth, stock value, previous use (and in which area)).
- Concerning the rules of investments in forestry technologies and products, they were considered as adequate by CS MS and regions that used it (Spain, Italy, and the Czech Republic). In Finland and in Poland, investment support was not used.

6.2 To what extent are the rules for the aid effective with regard to the effect on competition and trade within the internal market? (EQ5)

6.2.1 Approach

Rationale and coverage. In order to assess the extent to which aid is effective, the EQ has two sub-components: (i) to assess if there were negative effects on competitors and on trade within the internal market, and (ii) to verify whether the positive effects of the aid outweigh the negative effects.

Judgement criteria

- JC.1 The intervention logic of the measures shows the objective of the support.
- JC.2 The overall balance of positive effects (achieved or expected) exceeds the negative effects (observed or expected) on competitors and on trade within the internal market.

Methodology. The following approach to answering the EQ was adopted: the two forestry measures were considered separately (prevention of forest from damage and forestry investment); and aid schemes with expenditures were identified for both forestry measures. Specific guidance was developed for each measure. No single large enterprise benefited from support. There were very few expenditures over the examination period. Data from the reference period was considered when available (prevention from forest fires).

For these aid schemes, the intervention logic of the support has been made explicit. A detailed description of the support is provided. The direct effect on the beneficiaries is analysed as well as the incentive effect. A situation without aid is simulated if relevant and

[127] Bavaria, Baden Württemberg, Bund.

possible. Indirect effects of the support are described. Effects on competition and trade are discussed based on data available.

Figures come from application forms, AIR of RDPs, public support over the reference period from *ex post* evaluations and from beneficiaries. For forestry investment, actual data of price cost calculation of a public undertaking for the same machine was used. Figures include volume and price of wood, estimation of revenue of harvesting per hectare, calculation of support per cubic metre of wood harvested, support compared to the turnover and VA of the subsector, share of turnover exported. For investment they rest on actual price cost calculation. Figures on benefits come from AIR of RDPs or calculations.

For larger-scale support for prevention of forests from damage (forest fires and pests), public support is notably compared with the value of harvested wood, to the turnover, the value added of the subsector and share of export (France - Aquitaine) or to the forest output (Finland). For smaller-scale support (less than €20 000) the support is calculated per cubic metre of wood. The volumes of wood are considered as well as the absolute amount of support. Finally the overall balance compares the positive effects of support with the negative effects and draws conclusions on the balance.

6.2.2 Summary answer

EQ5: To what extent are the rules for the aid for investments in the forestry sector effective with regard to the effect on competition and trade within the internal market?
Were there negative effects for the competitors? Were there negative effects on trade within the internal market? **Were the negative effects outweighed by the positive effects of the aid (e.g. benefits in terms of ecological and economic development, growth and jobs and/or public policy objectives)?**
This EQ is answered separately for the two aid measures, (i) prevention and restoration of damage to forests, and (ii) investment in forest technologies, processing and mobilising. Regarding **prevention of forest from fires**, State aid granted supports infrastructure (such as firewalls, fire tracks, water storage etc.) and equipment to detect forest fires. Support is available to all regions with medium or high risk exposure to forest fires. This type of support is envisaged in many MS, notably in 6 out of the 8 CS MS. In France, regions exposed to high forest fire risk are mainly in the south of France; these forests are of low productivity, except the case of Aquitaine. The intervention case study was conducted for the "Landes" (almost 557 000 ha), a large and productive forest in Aquitaine (1.25 million ha). All French forests exposed to medium or high forest fire risk can be supported. The measure does not influence the volume of wood produced. There is no increase in production. Average public investment in infrastructure and equipment is estimated at €1/ha/year in the reference period in Aquitaine. Private support from forest holders is around €1.6/ha/year. Both these amounts allow the maintenance of more than 20 000 km of forest tracks and 25 000 bridges in 557 000 ha of Landes forest in Aquitaine. The amount of €1/ha/year of public support represents 0.4% of the current value of harvested wood after 40 years, that is around €8 750 (€35/m³ for 250m³/ha). The turnover of the subsector "forest – wood" was around €850 million and value added was €214 million in 2012. Comparing public support with the turnover and the value added of the subsector for *Landes*, support represents respectively 0.07% and 0.26% of the total. In this context, negative effects on competitors and on trade within the internal market are limited. This prevention measure is very effective in limiting forest fires: although there are numerous fire outbreaks (between 2 000 and 4 000 per year from 2007-2016), over 80% *affected less than 1 ha. Limiting affected areas could be achieved, although the period includes years with record summer temperatures, increasing population in the concerned departments and an increase in tourists in the summer.* The measure has major positive effects on the security of the local population (including tourists), the local forestry-based economy and the environment (including CO_2 emissions). For this productive forest, the positive effects of the measure largely outweigh any limited negative effects. From a qualitative point of view, respondents to the online survey consider that prevention from forest fires does not create distortion of trade and competition between MS. Two intervention aid schemes are analysed on **prevention of pests**, namely prevention of bark beetle in Germany and root rot in Finland. The scale of the two aid schemes differs in terms of expenditure in the examination period. The German case is small-scale (< €0.4 million) whereas the Finnish case is almost large-scale nationwide (€8.4 million).

State aid aims to encourage beneficiary “forest holders” to implement the respective prevention measure: supported prevention measures were environmentally friendly but more cumbersome (mechanical preventative measures instead of insecticides in Bavaria for Bark Beetle), or systematic when harvesting (Root Rot in Finland).

In Germany (Bavaria), mechanical preventative measures are available for all beneficiaries (private forest managers, their associations and municipalities). They concern small volumes of wood (80-160m³), small amounts per application (€1 300-€2 800/application) for total expenditures of less than €0.4 million. These very small volumes do not affect trade in the internal market. The environmental benefit of avoiding the use of insecticides largely exceeds any negative effect. Support is available to all forest holders. Although of limited magnitude, support has an incentive effect on implementing a laborious treatment.

In Finland, urea treatment to combat root rot when harvesting wood was available to all forest holders for a standard amount (€75/ha).The support does not increase the volume of wood produced. It does however limit losses of wood due to root rot. At the level of “forest holdings”, the cost of the treatment indicatively represents 0.45% of gross income from felling. Although the cost of treatment appears small in relation to gross income, nonetheless even with the subsidy not all foresters were treating stumps left after thinning or felling. The incentive effect was too limited. This notably explains why the treatment was made mandatory from mid-2016 onwards.

The Finnish forest output is estimated at €1.7-1.8 billion in 2015 and 2016 respectively. Support to root rot represented less than 1% of the forest output and operating profit of non-industrial forestry. With this small share and the limited incentive effect it is unlikely to cause undue distortion or affect trade.

The effects of limiting the spread of a major disease are important, also for neighbouring MS. The positive effect on the prevention of tragic consequences of epidemic diseases affecting the EU forestry outweigh the limited effects on competition and on trade.

Investment in forest technologies, processing and mobilising

The case study is related to Baden-Württemberg where the RDP supports investment in soil-friendly forwarding machines (machines that carry felled logs from the stump to a roadside storage point). Although the amount of support is small, the incentive effect is to stimulate the change of equipment at the level of SMEs for sustainable forwarding of wood all over the territory. Sustainable forwarding is essential for maintenance and restoration of biodiversity and natural regeneration.

Despite the very small level of support (20% of aid intensity, unique investment per beneficiary, support of €2 500 for moorbelts to €11 500 for forwarding machines) possible distorting effects need to be considered as support in neighbouring regions is different (not to the SME but to the forest holder) and competitors do not necessarily have access to this type of support.

According to our analysis, the effect on trade distortion is rather limited for the following reasons: (i) the support is small in absolute terms (€2 500 to €11 500) and by m³ (€0.2-0.3/m³); (ii) the volume concerns small amounts of wood in difficult areas (mountainous, steep slopes, wet areas); the beneficiaries are mainly micro and small enterprises. The competent authority of the neighbouring region did not consider it a distortion of competition. This opinion is also shared by the respondents to the survey (EU-28).

For this type of support, despite an effect on trade and competition, the environmental benefits exceed the limited effect on competitors.

6.2.3 Analysis

The analysis of negative and positive effects of the forestry measures rests on different intervention case studies, listed in Table 33. Aid for the prevention and restoration of damage to forests is assessed through three intervention case studies, one focusing on the prevention from forest fires, the other two on the prevention of pests.

Table 33: Selected intervention case studies for forestry measures

MS	Region	Scale	Type of measure	Beneficiary	Type of investment	Aid intensity
France	Aquitaine	Large	Prevention from forest fires	ASA	Infrastructure (tracks and water points)	40 up to 100%
Germany	Bavaria	Small	Prevention from pests (bark beetle)	Private forest managers, their associations, municipalities	Mechanical control of pest	40 up to 100%
Finland	South of Finland	Large	Prevention from pests (root rot)	Private and public forest holders and their associations	Application of urea when thinning or felling	75%
Germany	Baden Württemberg	Small	Forestry investment	Forest contractor	Soil friendly harvesting machines	20%

Source: ADE

Aid for the prevention and restoration of damage to forests

Prevention of forest from damage mainly concerns forest fires and to a lesser extent prevention from pests. Support provided in the 8 CS MS is shown in Table 34.

Table 34: Use of aid for prevention and restoration of damage to forests (8 CS MS)

MS	Support foreseen		Type of activities		
	RDP	RD like	Prevention from forest fires	Prevention from pests (main pest)	Restoration
Czech Rep	8.3, 8.4.1, 8.4.2				Not yet occurred
Estonia	8.3, 8.4		Yes	Root rot	Yes
Finland	8.3		-	Root rot	
France	8.3, 8.4	8.3, 8.4	Yes	-	Not yet occurred
Germany	8.3, 8.4	8.3, 8.4	Yes	Bark beetle	Not yet occurred
Italy	8.3, 8.4	8.3, 8.4	Yes	Cochineal of maritime pine	Yes
Poland		8.3	Yes		
Spain	8.3, 8.4		Yes	Yes	Yes

Source: ADE, country case studies

Prevention from forest fires has the largest use and financial support in regions exposed to forest fire risk. From the 8 CS MS, it is foreseen in six MS (Estonia, France, Germany, Italy, Poland and Spain). Two other intervention case studies concern prevention of pests (root rot in Finland and bark beetle in Germany). For forestry investment, support for soil-friendly harvesting machines in a RDP is analysed.

<u>Intervention case study France Aquitaine – Landes forest</u>

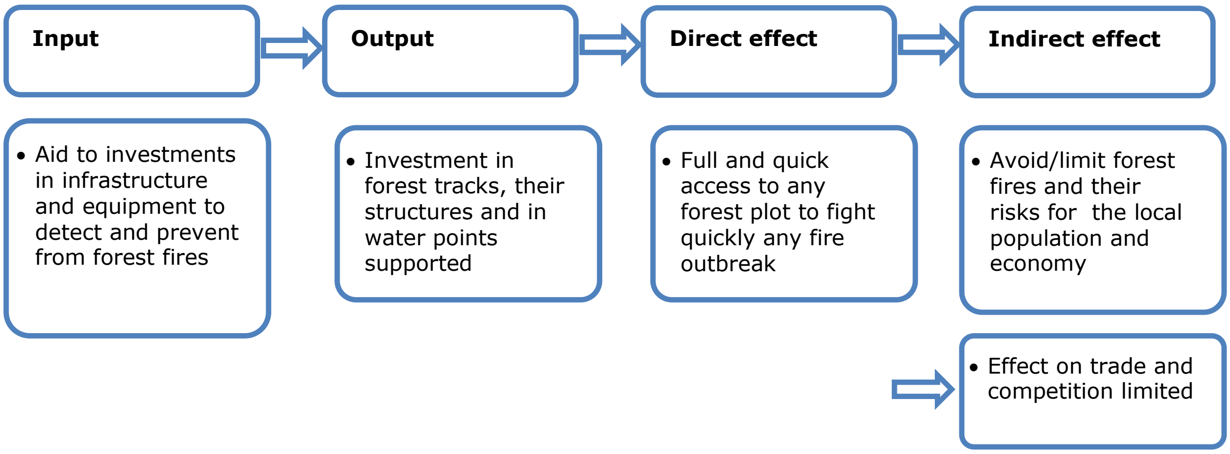
In France, regions and municipalities exposed to forest fire risk are mainly in the South of France (Provence-Alpes-Côte-d'Azur (PACA), Languedoc-Roussillon and Midi-Pyrénées (which together form the new "Occitanie" region), and Aquitaine (which is now part of the new region "Nouvelle-Aquitaine"). These regions implemented prevention measures from forest fires. Except Aquitaine, these regions concerned by forest fire risk are of low productivity (PACA and Occitanie). More details on the intervention study can be found in Annex 16.

JC.1 The intervention logic shows the objective of the support.

The intervention case study concerns the "Landes" in Aquitaine. Forest fires represent a major safety risk for the local population, with economic consequences for forest holders from a threat to the whole local forest economy. Aquitaine is one of the three French regions most affected by fires.

Private forests form the large majority with 91% of the area. Forest owners are grouped in associations of common interest known as ASA[128]. They group forest owners of a given territory. They manage activities of common interest such as prevention measures and linked infrastructure improvement. Forest owners support ASA with a financial contribution per hectare (€1.6/ha currently). ASA are also beneficiaries of RDP support for prevention measures. The objective of the prevention measure is to limit or avoid forest fires. The logic of the support is illustrated in Figure 16.

Figure 16: Intervention logic – « Landes forest » Aquitaine (France)



Source: ADE

Indicatively, during the examination period €0.25 million was paid from the aid scheme to support renovation and upgrading of forest tracks and construction of a flat bridge in three different ASA.

Data from the reference period were considered in order to have a more comprehensive view of this type of support: €9 million was committed in Aquitaine for the forest fire prevention measure (2007-2013)[129]. The "Landes" represents 557 000 ha of the total 1.25 million ha of Aquitaine, thus around €1/ha/year over the reference period.

JC.2 The overall balance of positive effects exceeds the negative effects on competitors and trade within the internal market.

I.2.1 Direct effect on beneficiaries.

Beneficiaries of the support are the ASA grouping forest owners of a given territory. They are non-profit associations who maintain the infrastructure of the area. Each forest owner pays a contribution per hectare to the ASA. With these funds and with public support (see above), ASA undertakes the renovation, upgrading and construction of infrastructure for prevention of forest fires. The incentive effect is to have this infrastructure in place and maintained.

The direct effect on ASA, grouping forest owners of a geographical unit, is the following: the forest of "Landes" is covered by maintained forest tracks and water tanks, which allow full and quick access to any forest plot (with max distance of 500m) through the ASA beneficiaries of the support. The area is covered (in total) by over 20 000 km of forest tracks and around 25 000 bridges[130]. Firefighters can quickly extinguish forest fires. This is

[128] The ASA are associations of common interest. They group forest owners of a given territory. They are responsible for prevention of forests from fires and infrastructure improvement. These ASAs are non-profit organisations run by volunteers. In Aquitaine, forest owners belong to one the 211 ASA, which are grouped among one of the four departmental unions for the protection of forest against fire. All of them are grouped in a regional association for protection of forest against fire. Data has been provided by a regional association.

[129] Source: Ex post evaluation of PDRH. 2017. Epices, ADE. Measure 226C, DFCI.

[130] Conseil général des Landes, 2013. La forêt des Landes de Gascogne.

the principle of the prevention of forest fires[131] in Aquitaine, a region with frequent fire outbreaks[132].

I.2.2 Indirect effects.

The positive effects of prevention and protection of forests against fire are numerous and varied. This measure of public interest:

- protects people: the concerned regions often concentrate a large population, and even more in summer (villas and tourism), when the risk of fire is highest;
- protects the local economy (beyond the simple benefit to the forest owners), the tourism economy, but also the local wood industry which depends greatly on the available resource;
- protects the environment and landscapes: forest fires sometimes destroy landscapes and have strong CO_2 emissions.

The whole prevention mechanism allows quick extinguishing of fires. It is very effective in limiting forest fires. As shown in the *ex post* evaluation of the PDRH (2007-2013), although there were numerous fire outbreaks (between 2 000 and 4 000 per year from 2007-2016) over 80% affected less than 1 hectare. Limiting affected areas could be achieved, although the period includes years with record summer temperatures, increasing population in the concerned departments and an increase in tourists in the summer.

In 2014 for instance, 3 315 outbreaks of forest fires were registered in Aquitaine, of which 86% affected less than 1 hectare, limiting strongly the damage caused including CO_2 emissions (source AIR RDP 2016). This limitation of damage was achieved despite extremely hot summer temperatures, the increased population in these departments and increased tourist numbers in the summer period (see Annex 16).

The good coverage of the forest with forest tracks for prevention of fire has also a positive effect on forwarding of wood and thus on the competitiveness of the sector. Indeed, forest tracks do allow easy forwarding of wood. But here it is mainly the flat topography of the Landes forest which facilitates forwarding of wood compared to steep remote areas, along with the fact that it is a monoculture.

I.2.3 Overall balance.

The measure does not affect the volume of wood produced in terms of an increase of production. The measure prevents loss of production due to fire. The estimated public support in the reference period approximated €1/ha/year. This amount represents 0.4% of the current value of harvested wood after 40 years, that is around €8 750 (€35/m³ for 250m³/ha).

In addition, the turnover of the subsector forest wood sector of *Landes Forest* was around €850 million in 2012, and the value added €214 million. Most wood is processed locally (1.25% of the turnover is exported).

If we compare public support (1€/ha/year in average in 2012[133]) with the turnover and value added of the subsector, support represents much less than 1% (respectively 0.07% and 0.26%). Less than 2% of the turnover is exported. In this context negative effects on competitors and on trade within the internal market are limited.

The approach is effective regarding the limitation of damage due to fire outbreaks. The benefits of prevention in terms of security of people, the local forestry economy and environment exceed the cost of prevention and the limited negative effects on competitors and trade.

Online survey

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[131] It is called DFCI, "defense contre les incendies forestiers".
[132] This approach has been developed after a major forest fire in 1949 that destroyed large forest areas and killed almost 100 firefighters.
[133] €9 million was committed for prevention from forest fires in Aquitaine for the 2007-2013 period thus on average, €1.29 million/year; the Landes represents 557 000 ha of Aquitaine's forest thus around €0.56 million/year (source: Ex post evaluation of PDRH, 2017).

From a qualitative perspective respondents to the online survey unanimously stated that this measure does not create distortion (see Annex 17 Table 38). Regarding the effect of State aid in other MS, only one MS stated that this measure could create negligible distorsion, 11 felt there was no distortion and one did not give an opinion.

Prevention of forest pests

Two intervention case studies are analysed. One concerns the prevention of damage caused by bark beetle in Germany. The other concerns prevention of root rot in Finland.

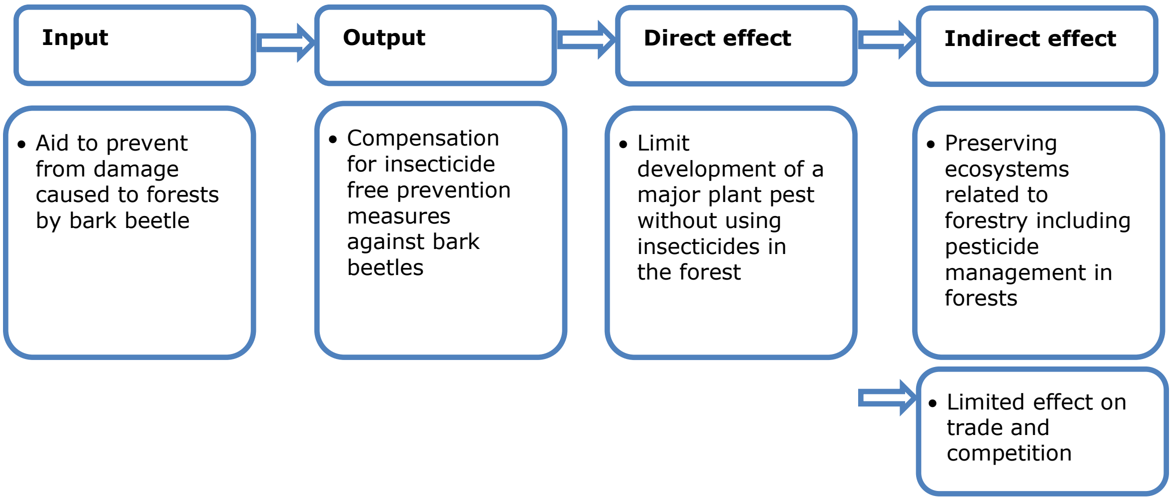
Intervention case study Germany (Bavaria) – Bark Beetle

JC.1 The intervention logic shows the objective of the support.

The intervention case study concerns prevention of bark beetle in Bavaria. As **prevention of bark beetle is mandatory**, o**nly activities that exceed the regulatory obligations can be supported**. They are limited to **prevention measures without insecticides.** Activities (and eligible costs) concern local and mechanical activities such as "debarking, rubbing or removal to storage places located at least 500 m away from the forest or the next possibly affected trees".

Beneficiaries are only private forest managers, their associations as well as municipalities (no State-owned forests). The aid intensity can reach up to 100% of the eligible costs, and only prevention is supported.

Figure 17: Intervention logic – bark beetle



Source: ADE

During the examination period, an amount of €371 835 was spent exclusively on the fight against bark-breeding insects in the protected forests or in highlands.

Table 35: Expenditures related to prevention of bark beetle

	2014	2015	2016
Applications	20	95	55
Expenditure (€)	26 085	270 435	75 315
Average expenditure/ application (€)	1 304	2 846	1 369
Volume of wood (m³)	1 600	15 200	4 400
Expenditure/m³	16.30	17.79	17.12
M³/application	80	160	80

Source: Bavaria Forest administration

JC.2 The overall balance of positive effects exceeds the negative effects on competitors and trade within the internal market.

I.2.1 Direct effect on beneficiaries.

Only forest owners and forest holders are financially supported for debarking, rubbing and removing affected trees. Prevention of bark beetle is mandatory. There is a legal obligation for forest owners to take preventative measures. **The incentive effect is to apply mechanical measures instead of using pesticides.** Without support, forest owners would apply the simplest and cheapest measure, namely insecticides. Costs are estimated at €1.5-3/m³ in easily accessible areas.

The measure supports operations without insecticides, namely debarking, rubbing or removal to storage places located at least 500m away from the forest roads. The removal costs vary with the distance to forest roads, the degree of steepness of the slopes, the existence of cable logging in steep slopes, and so forth. These costs amount to €30/m³ or even €50-65/m³ if a helicopter takes the trees. Additional costs compared to a situation where insecticides are used are important.

Information on the location of the supported applications is not available. All beneficiaries of Bavaria have access to the support.

I.2.2 Indirect effect: negative effects on competitors – negative effects on the internal market.

The risk of trade distortion is very limited as these are preventative measures which are supported for environmental considerations. The average amount per application is very small (less than €3 000) and it concerns limited volumes of wood. The environmental effect is to avoid the use of pesticides in forests.

I.2.3 Overall balance of positive effects exceeds negative effects.

The expenditures are very small in absolute terms (€1 500 to less than €3 000/application), they concern a small volume of wood (in m³) and they have a strong incentive effect. The environmental benefit avoiding the use of insecticides largely exceeds any negative effect. Support is available to all forest holders.

Intervention case study in Finland – Root rot

JC.1 The intervention logic shows the objective of the support.

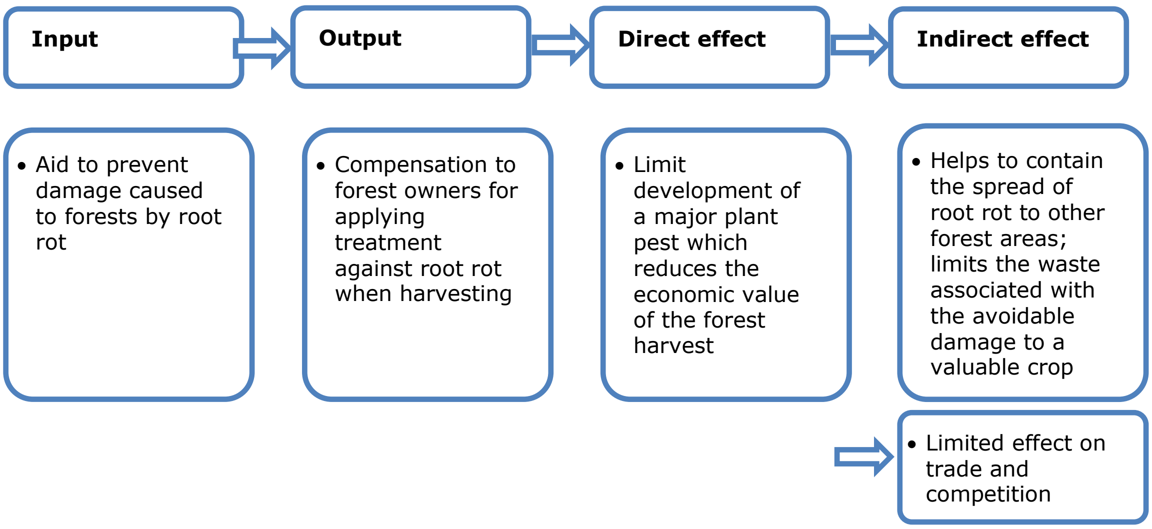
Finland notified its aid for preventing root rot disease as part of its State aid notification for the financing of sustainable forestry. However, Finland no longer provides any aid to forest owners under this point in the Guidelines. The prevention of root rot has been obligatory since April 2016 in the Forest Damages Prevention Act (1087/2013) as amended in the Act 228/2016.

Finland paid altogether €8.4 million aid for work done during the years 2015 and 2016 for preventing root rot notified under SA.41046. The aid amount for preventing root rot disease was €75 per hectare. The Finnish authorities estimated that this aid amount covered about 75% of the real costs. Large undertakings applying for aid under this measure were requested to describe in the application a counterfactual situation of the situation without the aid. In fact **the aid was never paid to large companies**.

Indeed, root rot is the most notable forest pathogen in Finland. It causes major losses to the forest industry (estimated at €50 million every year)[134]. The prevention of root rot is now obligatory since 18 April 2016 (change in Forest Damage Prevention Act). To assess the impact of this State aid on the internal market, the direct effect of the aid on the beneficiaries is first estimated using a counterfactual scenario, comparing the situation with the income of producers without this support. This is done both at the level of a forest holding and for the Finnish forest sector at national level.

[134] Spruce trees are more susceptible to root rot than pine. Approximately 15% of the spruce trees felled in Finland are rotten and thus commercially less valuable. Source: University of Helsinki Department of Forest Sciences, « Environmental Impact of Using Phlebiopsis gigantea in Stump Treatment Against Heterobasidion annosum sensu lato and Screening Root Endophytes to Identify Other Novel Control Agents », available at http://www.helsinki.fi/forestsciences/news/150820_Terhonen.html.

Figure 18: Intervention logic: Finland prevention from root rot[135]



Source: ADE

JC.2 The overall balance of positive effects exceeds the negative effects on competitors and trade within the internal market.

I.2.1 Direct effect on beneficiaries.

The size of forest unit within a forest holding where the root rot was prevented during the period 2015-2016 using State aid was approximately 1-2 hectares (average of 1.5 hectares assumed). The forest holdings are on average around 30 hectares, although the area treated is not directly dependent on the size of the forest holding. It is mainly spruce trees that are affected by root rot. The share of spruce of the total forestry land is approximately 25%. Prevention of root rot was carried out on approximately 109 000 hectares during 2015-2016.

The gross income from a forest depends on the age, volume, condition, share of different timber species and the market price of the wood. Roughly estimated revenues from spruce forest final felling are €15 000–18 000 per hectare (average €16 500 assumed) in southern Finland.

The root rot treatment is only applied when trees are felled for thinning or final harvest. For a hectare of felling to which the treatment is applied, the subsidy of €75 per hectare would add 0.45% to the gross income per hectare in that year.

Its primary purpose was to encourage forestry owners to apply the treatment in order to limit the spread of the disease in Finland. In the absence of the subsidy, a smaller area of forest would have been treated for root rot. Although the cost of treatment appears small in relation to gross income, nonetheless even with the subsidy not all foresters were treating stumps left after thinning or felling. The treatment was made mandatory from April 2016 onwards because the damage from root rot was considered so significant that prevention was made mandatory; in addition, the State did not have enough funds to effectively support forest owners in prevention of root rot. The root rot is spreading towards the north of the country because of climate change, and voluntary-based preventative activities are not sufficient to stop it.

[135] The spread of root rot is prevented by treating the stumps with an urea solution or with a preparation made from the fungus phlebiopsis gigantea. The stump treatment is carried out in mineral-soil coniferous forests, as the fresh stumps of pine and spruce are susceptible to the spores of heterobasidion annosum. The treatment is administered automatically in connection with harvesting via a device installed on the harvester. As a tree is cut, the device sprays the stump with the special treatment.

I.2.2 Indirect effect on the economy

The potential effect of the subsidy on trade and competition within the single market can be evaluated by comparing the value of the subsidy with the operating profit from forestry in Finland. This is shown in Table 36. Over the two years 2015-2016, the root rot subsidy (€8.4 million) accounted for 7.6% of the total value of the State subsidy for wood production. It represented less than 1% (around 0.27%) of the operating profits of private foresters in Finland in those two years. This figure is consistent with the previous calculation for individual forest owners as not all trees felled received treatment during that period.

Table 36: Estimating the potential effect of the root rot subsidy on private non-industrial forestry operating profit in Finland, 2015-2016

	2015	2016	2015 + 2016
	'000 €	'000 €	'000 €
Forest earnings/output	1 682 594	1 788 862	3 471 456
State subsidy for wood production	57 814	52 746	110 560
Operating profit of non-industrial private forestry	1 493 972	1 561 267	3 055 239
Root rot subsidy			8 400
Share of root rot subsidy in total state subsidy for wood production			7.6%
Share of root rot subsidy in total operating profit of non-industrial private forestry			0.27%

Source: computations based on LUKE, Statistics database, Operating profit in non-industrial, private forestry by year, selection, region and item of income/expenditure. Operating profit = forest earnings plus state subsidy less costs (not shown).

Negative effects on competitors – negative effects on the internal market.

Preventing root rot has an economic benefit for the forest sector in Finland. The fungus causes rotting in the most valuable part of a tree trunk, that is the part that produces the best sawn timber. The subsidy encouraged greater voluntary uptake of the treatment against root rot, there being a presumption that the output of Finnish forests will be greater as a result of the subsidy than if it had not been made available. However, the incentive effect was too limited, and the voluntary-based uptake too small, which led the Finnish authorities make it mandatory (see above).

I.1.3 Overall balance.

Root rot is a major disease affecting conifer forests in the northern EU MS. Limiting the spread of the fungus is a key economic and forest health issue. Not applying preventative treatment has significant negative externalities. Diseased trees provide less valuable timber and they reduce the carbon sequestration potential of the tree. The first reason for the subsidy was to have effective treatment of all areas. Individual forest owners are unable to protect themselves against infection if neighbouring forest owners do not apply preventative treatment. The incentive effect was limited, for this reason the treatment has now been made compulsory in Finland.

Support represented less than 1% (around 0.27%) to the operating profits of private foresters in Finland during those two years. Notably due to the small incentive effect, voluntary treatment was too limited, and prevention was made compulsory. Although effects on trade and competition cannot be excluded, they are very limited considering the amounts and the limited incentive effect. The positive effects of preventing root rot exceed the limited negative effects.

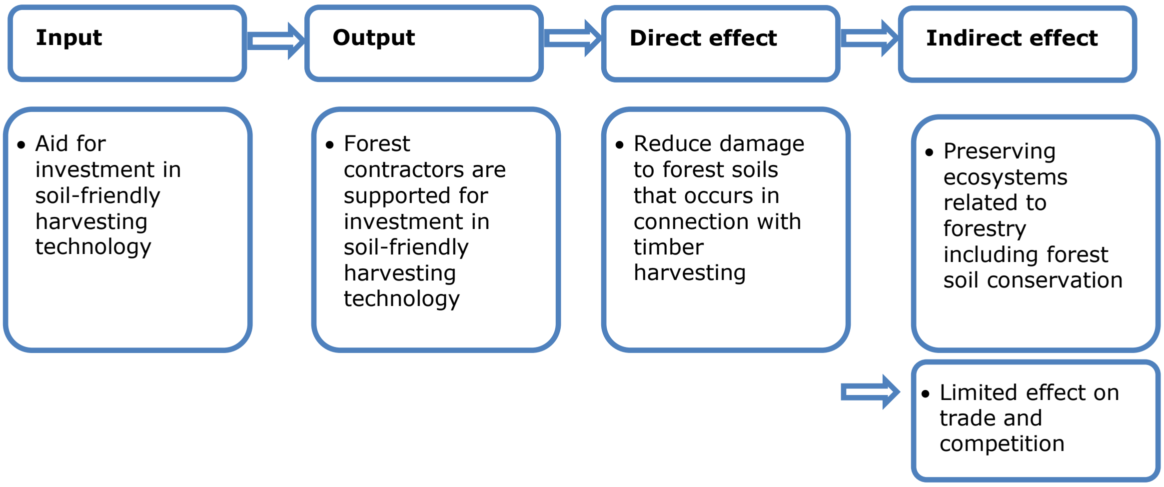
Investment support for processing and marketing

<u>Intervention case study – investment support Germany (Baden-Württemberg)</u>

JC.1 The intervention logic shows the objective of the support.

The objective of the support is to reduce damage to forest soils that occur in connection with timber harvesting (Figure 19). Supported investments include notably i) **The unique procurement of moorbelts or combination belts for forestry machinery (30% share financing); ii)** the unique procurement of a caterpillar forwarder system (20% share financing).

Figure 19: Intervention logic - investment support Germany (Baden-Württemberg)



Source: ADE

JC.2 The overall balance of positive effects exceeds the negative effects on competitors and trade within the internal market.

I.2.1 Direct effect on beneficiaries.

The beneficiaries of the aid are forestry companies - SMEs, working for the individual forest owners of Baden-Württemberg. The latter usually do not have their own machinery (harvesters, forwarder etc.). Instead, they use the services of forestry contractors. The objective of supporting the forestry contractors in the procurement of the technology is to encourage the adoption of this particularly soil-friendly technology over all territory (source RDP). The beneficiary forestry contractors must have their headquarters in Baden-Württemberg. The following applications were paid in 2016:

Table 37 : Support provided in RDP, RD measure 8.6 in 2016

Machines	Number of applications	Total support (€)	Average support/application (€)
Caterpillar forwarder system	7	81 000	11 500
Moorbelts for forestry machinery	36	91 000	2 500

Source: RDP Managing authorities, case study Germany

Only SMEs are eligible for this support. Support allows all SMEs of the region to purchase this equipment. Indeed, if a forest owner is certified (for sustainable harvesting), specific requests are made to forest contractors. In certain areas only moorbelts have access. They allow mobilizing of wood in remote difficult-to-access areas, and of wood which would cost too much to fell with conventional machinery.

Data from forest contractors are not available. This analysis rests on data of a public enterprise (not eligible for support) for the specific type of supported caterpillar machine. A simulation is done for different types of use (in terms of hours). The cost price of a forwarder without the caterpillar system is similar (even a little higher) at around €13-17/m^3 compared to €10-15/m^3[136] for the forwarder with caterpillar. The cost price varies a lot according to the location (wet or drier areas, presence of water sources or stones, slope, nature reserve etc.). The incentive effect is to replace harvesting using traditional forwarder by the caterpillar system. Indeed, forest holders often include requests for sustainable harvesting in their contract, which require sustainable harvesting techniques.

In Baden-Württemberg the most supported forestry machine is a caterpillar forwarder type "Wicki Forst Raupe" or similar machine. **The main task of the machine is to drag the timber to the strip road.**

[136] MA based on data collected from public enterprises.

This type of machine is equipped with caterpillar tracks to **avoid damaging fragile soils** of the forest; it is also equipped with a high-power winch, in order to secure the skidding machines along steep slopes and to pull them up. Forwarding timber without damaging forest soils is particularly important for interventions in fragile mountain soils or wet areas (subject to erosion, compression etc.) compared to the use of inadequate equipment (traditional tractor equipped with a winch). This type of machine allows extraction of timber that could otherwise not be mobilised in accordance with environmental standards.

Data has been collected with the support of Baden-Württemberg's regional administration, based on a public enterprise. In this example, the machine only worked 926 hours in one year and therefore the cost per hour was relatively high (116 days/year with 8 hours/day). Based on this data, a projection was done for 1 600 working hours/year (namely 200 days/year at 8 hours/day).

Table 38: Price cost in € of Forwarder 50.6B with traction winch, real data for 926 h/year, simulation with 1600h/year

Working Hours	**926h/ year**	**€/Working Hour**	**1600h/ year**	**€/Working Hour**
Depreciation	18 825	20.33	18 825	11.77
Interests	853	0.92	1 475	0.92
Running cost	2 390	2.58	4 130	2.58
Maintenance cost	5 941	6.42	10 265	6.42
Cost of implementation	3 585	3.87	6 194	3.87
Other costs	3 417	3.69	5 904	3.69
Total	35 011	37.81	46 792	29.25

Source: MA based on data collected from a public enterprise (not beneficiary); adapted by the evaluator (FCF) for 1600 working hours/year.

The purchase price of this type of machine is around €95 000. Depreciation is calculated over 5 years. Without any subsidy, the running cost is €37.81 per hour (using 926 working hours) and €29.25/hour for 1 600 working hours. With a subsidy of 20% of the purchase price[137], the running cost is reduced to €33.75 (i.e. – €4.06/hour) in the first case and to €26.87 (i.e. €2.36/hour) in the second. According to data from the public enterprise, such service is invoiced at €30.35 per hour.

The machine is not profitable if it works 926 hours/year. For a use of 1 600 working hours per year (200 days with 8 working hours), which is much closer to the usual norm of utilization, we have a cost estimate without subsidy of €29.25/hour. Simulating the integration of the subsidy (total cost of €46 792 reduced by €3 800 (subsidy depreciated over 5 years) brings us to a cost of €42 992 or €26.9 per hour. The subsidy would make a difference of €2.38/hour.

The productivity of such a machine varies according to the specific site, as it depends on the slope, the accessibility of the trees and so forth. In fact, based on data collected for a Wicki type machine over several years[138]:

- The productivity ranges from 17.6 m³ per hour to 4.1 m³ per hour, depending on the slope, its length, the wetness of the area, and so forth. The average is 10.8 m³ per hour.
- Accordingly, the impact of the subsidy is €0.38 per m³ for 926 working hours and €0.22 per m³ for 1 600 hours of operation[139], which is small compared to the timber value and its extraction cost.

Finally, one must add the skidding, felling and the raw material cost to the cost of the machine. The price of the roadside timber depends on the tree species, its quality and its distance from the mill, but in respect of mountain timber it is at least €75 per m³, so the impact of the subsidy is therefore between 0.3% and 0.5% of the price of wood.

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137 The following assumptions were made: purchase price of €95 000; 20% of aid intensity: €19 000 (which is actually higher than data communicated from the MA); depreciation over 5 years corresponds to a support of €3 800 in the yearly price cost calculation.

138 Source: Data on cost of forwarding of timber in different locations from Regional RDP MA in Baden Württemberg, data 2014 updated in 2018

139 Subsidy of €4.06/hour for 10.8 m³/hour

I.2.2 Indirect effect on trade and competition.

The investment support does not change the volumes of wood harvested. It only concerns more sustainable forwarding of wood, which is particularly effective in preserving soils in difficult locations as requested from forest owners in their contracts for forest harvesting. The volume of wood forwarded by a caterpillar forwarder is small.

All SME forest companies with headquarters in the region have access to support for a unique investment. Neighbouring German regions do not support investment in forest technologies. One of these regions (Bavaria) supports the forestry sector, but in a different way, supporting forest owners and not forest contractors. According to the competent authorities, the advantage for SME forest contractors from Baden-Württemberg (unique support of €11 500 in average) is very small; they consider the effect on distortion of competition is very limited, and in addition, supported companies will not go to other regions for the small volumes of wood concerned.

This analysis is confirmed by the findings of the online survey. Regarding the risk of distortion, according to 10 out of 14 respondents the State aid measure does not create distortion (see Annex 17 Table 39). Regarding the effect of State aid in other MS, only two MS stated that there was some evidence of distortion but that it was only of negligible proportions; 10 felt there was no distortion and two did not give an opinion.

Positive effect on the environment

The supported investment (machines) can be used in areas that are not accessible using conventional machines. They avoid soil erosion when cutting and forwarding trees by compaction and rutting of the soil structure in sensitive areas. This is essential for the maintenance and restoration of biodiversity. This support has mainly an incentive effect on changing the machinery; the support and the volume of timber concerned (in m^3) is too small to influence the price of wood.

I.1.3 Overall balance.

The negative effect of support on competitors is limited due to the following facts: - support provides a unique investment per forest contractor; it is limited in absolute amount (less than €20 000), and is 0.3-0.5% of the price of $1m^3$ of wood; small volumes of wood are especially significant in difficult areas. The positive environmental effects (encouraging forest contractors to replace tractors with equipment that is more adapted to and less harmful to the soil and the forest) outweigh the limited effect on competitors.

6.3 To what extent are the rules for the aid coherent with those for the underlying co-financed rural development measures or national top-ups? (EQ6)

6.3.1 Approach

Rationale and coverage. The EQ has two sub-questions: (i) in terms of coherence with RDP, to what extent are existing incoherences an obstacle to MS seeking to obtain SA clearance for RD support?; and (ii) to what extent were the differences in the conditions under State aid rules and RD rules (concerning aid intensity and eligible costs) important for the decisions of the authorities in MS on the design of the aid and for the investment decisions taken by beneficiaries?

The rules for State aid are defined in the respective legal instruments. One of the objectives of agricultural SA instruments is the alignment of rules of ABER and the agricultural GL with the RDR. This is discussed in this EQ for the two forestry measures.

Judgement criteria.

- JC.1 The rules of the RD measures and the corresponding State aid measures are coherent.
- JC.2 The different conditions under State aid rules and RDR have influenced the design of the aid.
- JC.3 Beneficiaries are aware of the differences in eligible costs and aid intensity and adapt their decisions accordingly.

Methodology. The answer to the EQ is based on a qualitative approach. It includes (i) a thorough comparison of the legal framework (RDR[140], ABER, agricultural GL)[141], article by article, and (ii) discussions of identified incoherences with competent authorities in case studies (validation by competent authorities and solutions applied). The specific rules for the aid are compared under each State aid instrument. It is further assessed by taking account of the views of the competent authorities (in CS MS and through the online survey). The approach rests on triangulation of the data and the information collected.

6.3.2 *Summary answer*

EQ6: To what extent are the rules for the aid for investments in the forestry sector coherent with those for the underlying co-financed rural development measures or national top-ups?

To what extent are existing incoherences an obstacle to Member States seeking to obtain SA clearance for rural development support?

To what extent were the differences in the conditions under the State aid rules and rural development rules (concerning aid intensity and eligible costs) important for the decisions of the authorities in Member States on the design of the aid and for the investment decisions taken by beneficiaries?

General consistency of rules for prevention and restoration of damage to forests. Some minor differences are observed at the level of eligible costs and aid intensities, but they are not a constraint.

For **investment in forest technologies and in processing and marketing** the comparison revealed some differences regarding eligible costs and especially aid intensities:

Costs regarding working capital (if related to new investment supported by EAFRD) are eligible expenditures according to RDR while those costs are not considered to be eligible under SA instruments.

Aid intensities are not coherent between the RDR on the one hand, and ABER and agricultural GL on the other. While the latter is harmonised with the horizontal aid instruments, it reveals differences with the RDR. Estonia confirmed that this difference means that the aid intensity of the RDR, which is more favourable, cannot be applied in less developed regions.

Identified incoherences on the basis of the desk review have not been pointed out by competent national authorities as important obstacles or blocking factors for SA clearance using the agricultural SA instruments. According to interviewed RDP managing authorities, beneficiaries are not aware of differences in aid intensities.

6.3.3 *Analysis*

JC.1 The rules of the RD measures and the corresponding State aid measures are coherent.

I.1.1 Comparison of the legal framework of the RDR with ABER and agricultural GL for prevention and restoration of damage to forests.

Prevention and restoration of forests from damage is covered by one single article or section in the respective agricultural SA instruments (see EQ4), while it is covered by two articles in the RDR (Art. 21(1)c and Art. 24). This corresponds to two different RD measures: one for

[140] The comparison included Regulation (EU) No 1305/2014 as well as the (i) Delegated Regulation (EU) No 807/2014 of 11 March 2014 supplementing Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the EAFRD and introducing transitional provisions and (ii) Implementing Regulation (EU) No 808/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the EAFRD.

[141] It should be mentioned that these legislative texts were prepared in English (which is the reference text) and they were translated to EU languages afterwards.

prevention (RD measure 8.3), the other for restoration (RD measure 8.4) of damage to forests from forest fires and natural disasters and catastrophic events.

However, the comparison of the rules stipulated by the agricultural SA instruments for prevention and restoration of forests from damage with the relevant rules from the RD legal framework[142] demonstrate that they are harmonised and coherent. Only some minor differences have been identified and are illustrated below.

- **Beneficiaries** are defined as private and public forest holders and other private and public bodies and their associations. They are strictly identical among the different legal instruments.
- **Definition of the scope.** Some slight differences are observed in defining the scope of the measure for prevention and restoration of forests: the agricultural SA instruments[143] explicitly cover adverse climatic events which can be associated with a natural disaster and other adverse climatic events, while this is not the case for RDR (Art. 24(1)(d)). On the other hand, the latter explicitly covers disease outbreaks, while ABER and agricultural GL relate to plant pests. However, in practice RDR and the agricultural SA instruments cover the same types of events or risks.
- **Eligible costs.** Definition of eligible costs is generally consistent across the compared legal instruments, especially regarding the types of possible activities to be supported when they are explicitly described[144].
- **Aid intensity.** Annex II of the RDR does not include any information on the aid intensity rate for the measure under review, which is 100% for ABER (Art. 34(8)a,b) and agricultural GL (§(527)-(528)).

I.1.2 Comparison of the legal framework of the RDR with ABER and agricultural GL for forestry investments.

Aid for investment in forestry technologies and in processing, mobilising and marketing of forestry products is included in the scope of both agricultural SA instruments. Also the RDR foresees such support (Art. 26), which corresponds to RD measure 8.6. The comparison of the legal framework of RDR (and corresponding delegated acts), ABER and agricultural GL for investment in technologies, processing and marketing of forest products revealed some differences regarding eligible costs and aid intensity.

- Definitions of the **scope** and of the **beneficiaries** and some of the specific conditions provided are fully consistent across the legal instruments.
- **Eligible costs.** Compared to RDR (Art. 45(2)a), ABER (Art. 41(6)a) and, more specifically, agricultural GL (§502)a) define additional conditions for such eligible costs: land is only eligible if not exceeding 10% of total eligible costs (both ABER and agricultural GRL), but this proportion could exceptionally and in justified cases be raised under agricultural GL only, notably for operations related to environmental conservation. Furthermore, analysis revealed one difference in the definition of eligible costs related to working capital: if it is related to a new investment supported by the EARDF, such capital may be an eligible expenditure under RDR (Art. 45(5)), but it is not considered an eligible cost under ABER (Art. 41(7)) and agricultural GL (§502). The exclusion of working capital under the State aid stems from the basic State aid principle of not allowing operating aid.
- **Aid intensity.** Under the RDR, the aid intensity rate of 65% applies only and exclusively to less developed regions. In the case of ABER and agricultural GL, the rate of 50% applies to (i) less developed regions and (ii) all regions of which the GDP *per capita* for the period from 1 January 2007 to 31 December 2013 period was less than

[142] The RD legal framework is defined by the RDR Regulation (EU) 1305/2014, Commission Delegated Regulation (EU) No 807/2014 and Commission Implementing Regulation (EU) No 808/2014.
[143] ABER (Art. 34(5)d) and agricultural GL (§(521)(d)).
[144] One small difference was observed regarding "other costs" ABER Art. 34(10)§3 including "other costs […] related to the particularities of the forestry sector [which] may be considered to be eligible costs". Such a concept of other costs resulting from any particularities of the forestry sector is not explicitly mentioned in RDR nor in the agricultural GL. This was actually a pure drafting omission, the aid is strictly identical to the underlying RD measure.

75% of the average for the EU-25[145] for the reference period but of which GDP *per capita* is above 75% of the GDP average of the EU-27. In consequence, the rate of 50% applies to less developed regions as well as to some of the current "transition" regions in the EU-27 (see Table 39). Therefore, the category "any "c" areas which are not NUTS 3 regions, non-predefined "c" areas or "c" areas adjacent to "a" areas" could not be clearly delineated, so the rates provided are not fully consistent across the the legal instruments.

Table 39: Comparison of the aid intensity in the different regulations concerned

	RDR Annex II art.26 par 4	ABER*	GL*
Other regions*	40%	40%	40%
Less developed regions	65%	50%	50%
Outermost regions and SAI	75%	75%	75%

Source: ADE, based on regulations; * (i.e. any "c" areas which are not NUTS 3 regions, non-predefined "c" areas or "c" areas adjacent to "a" areas)

JC.2 The different conditions under State aid rules and RDR have influenced the design of the aid.

Despite some differences identified on the basis of a desk review for both forestry measures, there little supportive evidence deriving from other information sources, such as case studies or the online survey. Only the Estonian case study revealed that for MS the different aid intensities for less developed regions with the RDR is an issue; only the lower rates from agricultural SA instruments can be applied. In general, however, inconsistences did not appear as an important obstacle or blocking factor for SA clearance using the agricultural SA instruments. See also EQ4.

JC.3 Beneficiaries are aware of the differences in eligible costs and aid intensity and adapt their decisions accordingly.

According to the interviewed RDP managing authorities (Estonia), beneficiaries are not aware of differences in aid intensities.

145 Meaning that the baseline here is the sum of GDP of EU MS except Bulgaria and Romania which accession to the EU resulted in lowering the average GDP per capita.

7. THEME 3: AID MEASURES FOR INVESTMENTS IN NON-ANNEX I ACTIVITIES IN RURAL AREAS

Theme 3 focuses on aid for investments concerning the processing of agricultural products into non-agricultural products (ABER Art. 44; agricultural GL S.3.1). The State aid measure and its rules are presented in Section 3.1.3.

As with theme 2, this theme includes three EQs related to the relevance of State aid rules with regard to the need to obtain SA clearance for the underlying co-financed RD measures or top-ups (EQ7); the effectiveness of those rules with regard to the effect on competition and trade within the internal market (EQ8); and the coherence of the rules with those for the underlying co-financed RD measures or top-ups (EQ9).

The following sections provide the answer to each of the EQs covered by theme 3.

7.1 To what extent are the rules for the aid relevant with regard to the needs to obtain SA clearance for the underlying co-financed rural development measures or top-ups? (EQ7)

7.1.1 Approach

Rationale and coverage. This question focuses on aid for investments concerning the processing of agricultural products into non-agricultural products, as defined by ABER Art. 44 and agricultural GL S.3.1. Aid related to non-Annex I products does not benefit from the exemption from State aid notification by virtue of Art. 42 TFEU. **Clearance must be sought by MS under one of the agricultural SA instruments (ABER or agricultural GL) or the horizontal SA instruments** (the general *de minimis*, GBER or RAG). State aid based on the agricultural SA instruments can only be cleared if the measure is included in a RDP.

In the past, non-Annex I products produced from agricultural products (Annex I) were considered as industrial products. They were excluded from agricultural SA instruments over the 2007-2013 period[146] and also previously (2000-2006). Likewise, support to processing and marketing of agricultural products was limited in the RDR to Annex I products for SMEs over the two previous programming periods[147]. However, support for investment in non-Annex I products was possible only for farmers (primary producers) and microenterprises[148].

In the former ABER[149], all investments regarding processing and marketing of agricultural products (processing into non-Annex I **but also Annex I products**) were associated with industrial products[150] – and thus not applicable. The former agricultural GL (2006/C 319/01) did cover processing and marketing of agricultural products but only if the resultant product remained an agricultural product. Hence, the clearance of aid was possible either through the former agricultural GL (limited to transformation from Annex I to Annex I) or the former horizontal SA instruments[151]. *De facto*, GBER was the only possibility for exemption (for transformation from Annex I to both Annex I and non-Annex I products).

The current RDR has extended the investment support to processing of agricultural products into non-Annex I products. The latter can be provided under two different RDR articles:

- Art. 17 concerns investments in physical assets. Its paragraph 1(b) concerns support for the processing, marketing or development of agricultural products covered by Annex I to the Treaty or cotton, except fishery products; the output of the production process may be a product not covered by that Annex. Aid under this measure concerns mainly SMEs. This corresponds to RD measure 4.2[152].

146 The 2007-2013 agricultural GL did cover only processing of agricultural product into agricultural products.
147 Regulation (EC) No 1698/2005, Art. 28 and Regulation (EC) No 1257/1999 Art. 27.
148 RD measure 311 and 312 of Regulation (EC) No 1698/2005.
149 Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Art. 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001.
150 See recital (6), Commission Regulation (EC) No 1/2004 of 23 December 2003 on the application of Art. 87 and 88 of the TFEU to State aid to small and medium-sized enterprises active in the production, processing and marketing of agricultural products.
151 Regulation (EC) No 1998/2006 (former the general de minimis); Regulation (EC) No 800/2008 (former GBER); and former RAG.
152 Regulation (EU) No 808/2014, part 5.

- Art. 19 concerns farm and business development. Its paragraph 1(b) concerns investments in creation and development of non-agricultural activities (including possibly non-Annex I activities among four other activities (tourism, energy etc.). Aid under this measure is confined to farmers and members of their families as well as micro- and small enterprises as well as natural persons in rural areas. This corresponds to RD measure 6.4[153].

This EQ concerns the support of the afore-mentioned measure related to investments leading to non-Annex I products, which may thus be included in two RD measures. In particular, the need for clearance is assessed, the use of the various available clearance options (agricultural SA instruments or horizontal instruments) and the guidance offered by those rules to MS allowing them to choose among the clearance instruments.

Judgement criteria.

- JC.1 MS used the available options to obtain SA clearance.
- JC.2 The legal framework is adequate and supports competent authorities in making well-informed decisions.

Methodology. The answer to the EQ includes qualitative and quantitative data, and mainly rests on triangulation of information. Quantitative data are taken from statistics on the use of agricultural SA instruments for non-Annex I activities; an online survey (at the level of EU-28); RDPs chapter 13, AIR 2016 monitoring data; and financial accounts from beneficiaries. Qualitative data include interviews with (i) competent authorities in the 8 CS MS, especially RDP managing authorities, (ii) interviews with beneficiaries, and (iii) interviews with competitors.

7.1.2 Summary answer

EQ7: To what extent are the rules for the aid for investments in non-Annex I activities relevant with regard to the need to obtain SA clearance for the underlying co-financed rural development measures or top-ups?

The need for obtaining SA clearance differs according to the scope of the two RD measures. For RD measure 4.2 supporting SMEs for their investment in processing and marketing of agricultural products, **only the investments leading to non-Annex I activities need clearance**. The coverage of processing until non Annex I products in this particular RD measure is introduced for the first time. For RD measure 6.4 relating to investment in the development of **non-agricultural activities, clearance is needed for support for all types of investment**.

Agricultural SA instruments are relevant for obtaining SA clearance for investment in processing agricultural products into non-Annex I products under RD measure 4.2. With 66% of the reviewed RDPs (55 out of 83 in the 8 CS MS) covering RD measure 4.2, the need for authorising this investment support is significant. MS use ABER, but also the horizontal SA instruments (JC.1) (in particular GBER which was the only option for exemption before 2014). Competent authorities take well-informed decisions comparing the potential support under the different instruments (including ABER vs GBER) (see EQ9). Those that used ABER consider it an important simplification.

During the examination period there was little expenditure relating to RD measure 4.2 non-Annex I: €2.6 million in the 8 CS MS, and indicatively a maximum of €8.3 million in the EU-28[154]. It is not possible to identify the **budget** specifically devoted to non-Annex I products within RD measure 4.2 which includes both Annex I and non-Annex I products. The actual share of non-Annex I projects within RD measure 4.2 is relatively low (<20%), sometimes difficult to identify and manage (8 CS MS). In addition, differences were observed between data in SARI and RDP expenditures.

The scope and eligible costs are overall adequate, although an extension to intangible investment in product development was suggested (Finland, Italy). The aid intensity is considered low compared to Annex I products.

Agricultural SA instruments do not respond to the need to obtain SA clearance for non-agricultural activities including investment in processing agricultural products into non-Annex I under RD measure 6.4. This measure covers non-Annex I products among other activities such as tourism, energy, health and culture. SA clearance is needed for support for all types of investments. However, these investments cannot be block-exempted by the agricultural SA instruments but must be notified. No aid schemes were identified based on the agricultural GL during the examination period. The administrative burden related to the agricultural GL is too important in relation to the type of

[153] Idem.

[154] This includes €5 million for Austria where it was not possible to differentiate between Annex I and non-Annex I.

beneficiary (exclusively micro and small enterprises) and the amount of aid. Instead, the horizontal instruments are being used (the general *de minimis* and GBER).

7.1.3 Analysis

JC.1 MS used the available options to obtain SA clearance.

I.1.1 Use of ABER and agricultural GL.

During the examination period, **22 aid schemes were implemented by 11 MS at the level of the EU-28: 20 block-exempted and two notified** (Spain and Slovenia). Indicatively, the total State aid expenditures related explicitly to processing into non-Annex I products is around €8.3 million, of which 80% is from one aid scheme in Austria (see Table 40). It is important to mention that the aid scheme in Austria covers several types of beneficiary, including cooperatives. SMEs are only one of the three groups of beneficiaries of the aid scheme. Support covers processing of agricultural products resulting in both Annex I and non-Annex I products. Some non-Annex I products are explicitly excluded (notably brewery and bakery products). The data available in the AIR did not differentiate the share of the expenses (€5.08 million) devoted to Annex I and non-Annex I products. As for the forestry measures, differences were mentioned by some CS MS between data in SARI and RDP expenditures.

Table 40: Coverage of processing of agricultural products into non-Annex I products in EU-28 (number of aid schemes and expenditures per MS)

MS	Number		Expenditures (€ million)		
	GL	ABER	GL	ABER	Total
Austria		1		5.08	5.08
Belgium		1		-	-
Bulgaria		1		0.62	0.62
Croatia					
Cyprus					
Czech Republic		1			-
Denmark					
Estonia					
Finland		1		1.30	1.30
France					
Germany*		1		-	-
Greece					
Hungary		1			-
Ireland					
Italy		3			-
Latvia					
Lithuania					
Luxembourg					
Malta					
Netherlands					
Poland					
Portugal					
Romania					
Slovakia					
Slovenia	1	1			-
Spain	1	6		1.30	1.30
Sweden					
United Kingdom		3		-	-
TOTAL 8 CS MS	1	12	-	2.60	2.60
TOTAL EU-28	2	20	-	8.30	8.30

Source: ADE, based on data from DG COMP and competent authorities in case study MS and their RDPs; for Spain data included in SARI have been corrected after contacts with the competent authorities; in Germany*, 4 RDP support the measure; there were few expenditures and only for two regions that have been taken into account.

CS MS which block-exempted an aid scheme during the examination period include the Czech Republic, Finland, Germany, Italy and Spain. Only two aid schemes are notified at the level of the EU-28, one Spanish region and Slovenia.

I.1.2 Use of the measure in the RDP and corresponding clearance instruments.

Support for processing of agricultural products into non-Annex I products defined by RD measure 4.2 is provided by 66% of the RDPs reviewed for the CS MS (83 RDPs). Only 29% (16 RDP) of those having RD measure 4.2 used the agricultural SA instruments for clearance.

There are 109 different RDPs[155] in the EU-28 for this period, of which 83 are covered by the 8 CS MS. A detailed review of those 83 RDPs[156] revealed that RD measure 4.2 (support for investments in processing/marketing) was selected by 75 RDPs. Among those, 55 specifically include support for processing into non-Annex I products as described by ABER Art. 44 or agricultural GL S.3.1. Only 16 of the 55 RDPs (CS MS) that included support for processing into non-Annex I products used one of the agricultural SA instruments for clearance. MS underlined that the share of support for non-Annex I products is very small (Finland, Germany, Italy, and Spain).

Besides the agricultural SA instruments, MS largely GBER and the general *de minimis* for clearance of the support under review. This is presented in Table 41.

Table 41: Overview of SA instruments used by the 8 CS MS

CS MS	Clearance instruments used
Czech Republic	ABER, GBER
Estonia	GBER
Finland	ABER
France	RAG, GBER, *de minimis*
Germany	ABER
Italy	ABER, GBER, *de minimis*
Poland	no support provided
Spain	ABER, GL

Source: ADE based on data from DG COMP and case studies

The **Czech Republic** has block-exempted one aid scheme supporting, among other things, processing and marketing (RD measure 4.2). Previously, the authorities provided this support using the general *de minimis* regulation or the GBER. However, no support was previously granted with regard to the specific sub-measure related to processing into non-Annex I products. While an agricultural block-exempted aid scheme is in place based on ABER, expenditures are also registered in favour of processing into non-Annex I products under two GBER aid schemes.

Germany block-exempted one national aid scheme for all RDPs. This umbrella aid scheme covers all German regions that wish to support the measure. It includes both ABER Arts. 17 and 44. Six out of 13 RDPs use RD measure 4.2, but only four[157] used the measure for processing agricultural products into Annex I and non-Annex I products.

In **Italy**, 13 out of 21 RDPs included support for processing of agricultural products into non-Annex I products in their respective RDP. However, three regions registered aid schemes under ABER[158], the other regions opted for GBER or the general *de minimis* (in particular for RD measure 6.4).

During the examination period, five **Spanish** regions[159] have registered this type of support using ABER and one region (Castilla La Mancha) has notified an aid scheme. It is important to mention that in fact 12 regions (out of 17) support RD measure 4.2 in their respective RDPs. However, some aid scheme registrations might have come later than 2016, and some might have used the horizontal SA instruments.

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155 National and regional measure related RDPs excluding cross-cutting national programmes. In total there are 118 RDPs.
156 Source RDP chapter 13 - competent authorities.
157 Baden Württemberg, Hessen, North Rhine Westphalia, Thuringia.
158 Friuli-Venezia Gulia, Veneto, Marche.
159 Andalucía, Aragon, Cantabria, Galicia and Comunidad Valenciana (2).

France currently uses the following aid schemes: SA40453 (GBER); SA39252 (RAG) and the general *de minimis*.

MS did not use the agricultural SA instruments to obtain clearance for support for processing of agricultural products into non-Annex I products determined by RD measure 6.4. Indeed, clearance for support related to RD measure 6.4 can be obtained through the agricultural GL or the horizontal SA instruments. While Spain and Slovenia did notify an aid scheme during the examination period under the agricultural GL, the aid schemes targeted RD measure 4.2. in order to include large enterprises.

No investment support for non-Annex I activities was implemented in **Poland**. In fact there is no specific measure for tackling the processing of non-Annex I products. The aid within the Polish RDP 2014-2020 (RD measure 4.2) and preferential credits (a Polish State aid support measure for agriculture) only offer support for processing of Annex I products.

JC.2 The legal framework is adequate and supports competent authorities in making well-informed decisions.

I.2.1 Adequacy of the rules in the legal framework.

The scope of the two RD measures related to investments in non-Annex I activities or products is broader than the scope of the respective article or paragraph in the agricultural SA instruments.

- For the investment **RD measure 4.2** for SMEs, the RD scope covers both Annex I and non-Annex I products. Only the latter needs clearance through SA instruments.
- For **RD measure 6.4** regarding farm and business development, five different types of activity can be supported, only one concerning processing of agricultural products into non-Annex I products. This measure is only eligible for micro and small enterprises[160] in the RDR (Art. 19.2). However, no exemption is possible, they are only covered by the agricultural GL. This is due to the fact that the other investment categories (tourism, health) are covered by GBER.

Table 42: Scope of RD measures 4.2 & 6.4 compared to art.44/§3.1 of ABER/GL

RDR article/measure	Scope of the RDR measure	Need for SA clearance	Possibility in ABER/GL
RDR Art. 17.1b) RD measure 4.2	End product Annex I	No	
	End product non-Annex I – Art. 44 / §3.1	Yes	ABER and GL
RDR Art. 19.1b) RD measure 6.4	Tourism	Yes	GL only
	Energy	Yes	GL only
	Culture	Yes	GL only
	Health	Yes	GL only
	Processing of agricultural products into non-Annex I – Art. 44 / §3.1	Yes	GL only

Source: ADE, based on relevant legal instruments

I.2.2 Competent authorities make informed choices for using a specific State aid instrument.

The choice by competent authorities to use a given agricultural State aid instrument (in the case of RD measure 4.2) is based mainly on efficiency considerations. The extension of the scope of ABER covering RD measure 4.2 has been appreciated by the MS (Finland, Spain, and Italy). The procedure is seen as efficient and imposing the least administrative burden (comparing ABER, agricultural GL and GBER) (see also EQ10). In Spain, for example, State aid approval is given for all Spanish regions once over the duration of the whole RDP period, which is perceived as positive. Castilla La Mancha has notified an aid scheme online as **its support scheme is not limited to SMEs but is also available to intermediate and large undertakings**. Despite the option to notify an aid scheme online, the experience of Castilla La Mancha underlined the administrative burden related to filling in all the necessary

[160] As well as to farmers or members of farm households.

documents. Moreover, during the approval process interaction with Commission Services has further increased the time needed and the burden related to the process.

Besides, the choice of the SA clearance instrument (agricultural or horizontal instruments) is guided by the adequacy of the agricultural SA instruments as compared to the RDR. As outlined in I.2.1, the RD measures are broader than the definition of the agricultural SA instruments, and SA instruments cover the RD measures differently.

Furthermore, the choice of a State aid instrument is guided by the process of RDP approval and State aid registration. The Italian competent authorities underlined that using the agricultural SA instruments risks delaying the implementation of the RDP: State aid comments need to be integrated into the RDP which may then not be accepted by the RDP approving unit. Hence, the general *de minimis* aid is often used as it allows rapid implementation without impacting on the RDP process. This point has also been confirmed by the Spanish competent authorities.

Countries that decided not to use agricultural SA instruments for SA clearance are Estonia, France and Poland.

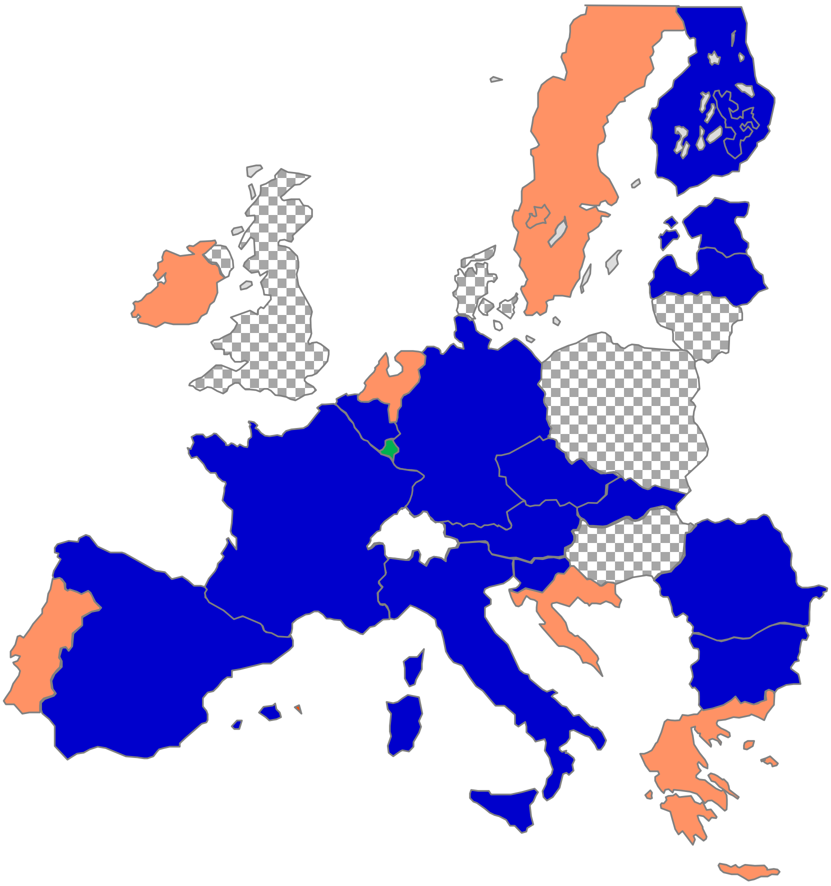
Estonia has a **GBER**-based aid scheme, as in the previous period. The main reason for not using ABER is the restriction providing support only to SMEs, whereas the need in Estonia includes larger undertakings (food processing industry or larger projects). Another limitation is the ABER notification threshold, as the aid amount can in some cases be higher than the €7.5 million limit stipulated in Art. 4 in ABER. In Estonia, RD measure 6.4 (support for investment in the creation and development of non-agricultural activities) does not specifically concern non-Annex I products. Estonia can make use of GBER given that it is a less-developed region (TFEU 107(3)a).

While the RD measure 4.2 is largely used in most **French** RDPs (27), a national aid scheme has been used based on GBER. Authorities clarified that the scope of ABER – that is, support for RD measures included in the RDP and not RD-like measures – would entail some French regions having to establish a separate aid scheme to cover their RD-like measures (pure State aid). GBER rules are less restrictive, providing the opportunity to the French authorities to have one national aid scheme rather than having multiple regional aid schemes for the same type of support. Moreover, the French competent authorities were already familiar with GBER which they had used in the 2007-2013 period. They only slightly adapted the aid schemes for the current period.

According to the online survey (N=21)[161], 15 MS provide State aid while 6 consider that this particular need is covered by the private sector (see Figure 20). Luxembourg is the only MS providing State aid outside the RDP (which cannot be cleared with the agricultural SA instruments). The limitations relating to the use of the agricultural SA instruments were the definition of the beneficiaries (large enterprises (Spain, Slovenia) and aid intensities (too low compared to annex I). In terms of scope, the difficulty for investors in defining the part of the investment related to Annex I and non-Annex I within an investment project was highlighted (see EQ9).

[161] No response was provided by 7 MS to this question.

Figure 20: MS provision of State aid for investments concerning the processing of agricultural products into non-agricultural products



	SA provided within **national and/or regional RDP(s)**	**AT, BE, BG, CZ, DE, EE, ES, FR, FI, IT, LV, RO, SI, SK**	**14MS**	50%
	Pure SA provided not within a RDP	**LU**	**1MS**	4%
	No SA provided, **need covered by market**	**EL, HR, IE, NL, PT, SE**	**6MS**	21%
	No response	*CY, DK, HU, MT, LT, PL, UK*	*7MS*	*25%*

Source: ADE, survey conducted among EU-28 competent authorities

7.2 To what extent are the rules for the aid for investments in non-Annex I activities effective with regard to the effect on competition and trade within the internal market? (EQ8)

7.2.1 Approach

Rationale and coverage. The tender specifications provided for three sub-questions in relation to EQ8:

- What were the main final products (non-Annex I products) in which the beneficiaries invested and in the markets they targeted?
- Were there negative effects for competitors? Were there negative effects on trade within the internal market? In particular, to what extent did the size of the project or the amount of support lead to such effects on competition and trade?
- Were the negative effects outweighed by the positive effects of the aid (e.g. benefits in terms of ecological and economic development, growth and jobs or public policy objectives)?

The rationale and coverage of the EQ is defined by the following components:

- Non-Annex I from Annex I products: this EQ considers the final products in which the beneficiaries invested and the markets possibly affected by the investment support.
- The focus is on RDR Art. 17.1b) (RD measure 4.2); indeed Art. 19.1.b (RD measure 6.4) only concerns micro- and small enterprises and no expenditure was registered.
- A distortion of competition and an effect on trade between MS are two of the necessary conditions for a measure to qualify as State aid and subsequently to fall under EU State aid control. This EQ tackles these two items. The size of the project and the amount of the support are important elements to consider.
- As minimising distortions of competition is an essential part of State aid control, this EQ considers the potential negative effects on competitors. In addition, this question also asks whether the measure strengthens the position of a company as compared to that of competitors in other MS.

Judgement criteria.

- JC.1 Main final products (non-Annex I products) and markets targeted.
- JC.2 The overall balance of positive impacts (achieved or expected) exceeds the negative effects (observed or expected) on competitors and on trade.

Methodology. A quantitative approach through a counterfactual scenario was foreseen for this EQ. Given the small number of beneficiaries, a situation without support was simulated for beneficiaries based on accounting data. Beneficiaries and competitors were interviewed for a given product and market. Competent authorities were also interviewed. The second JC regarding the overall balance covers the two sub-questions (ii) and (iii).

7.2.2 Summary answer

EQ8: To what extent are the rules for the aid for investments in non-Annex I activities effective with regard to the effect on competition and trade within the internal market?

What were the main final products (non-Annex I products) in which the beneficiaries invested and the markets they targeted?

Were there negative effects for the competitors? Were there negative effects on trade within the internal market? In particular to what extent did the size of the project or the amount of support lead to such effects on competition and trade?

Were the negative effects outweighed by the positive effects of the aid (e.g. benefits in terms of ecological and economic development, growth and jobs and/or public policy objectives)?

The answer to the EQ is based on the aid schemes with expenditures and funded projects for non-Annex I products during the examination period. The evaluation of effects on trade is limited by the lack of statistics on trade for these specific niche products.

Main final products and markets targeted. A variety of "final" products are concerned by the investments: (i) bread and bakery products (including gluten-free) from cereals as well as brewed beer and distilled alcohol products; salty snacks; (ii) ice cream from milk; (iii) plant-based protein products from soya beans; (iv) homeopathic and cosmetic products from medicinal herbs. The main markets targeted are local and regional or national. Few operators also target the EU market. Many projects are innovative (at least for the concerned region), they often concern niche markets.

Overall balance of positive effects exceeds negative effects

Were there negative effects for the competitors? Were there negative effects on trade within the internal market? In particular, to what extent did the size of the project or the amount of support lead to such effects on competition and trade?

Negative effects on competitors were limited owing to the following facts: (i) the limited aid intensity of 10-20% (with the exception of regions with constraints where higher aid intensities may apply (e.g. sparsely populated, less developed or transition regions)); (ii) the limited size of the project (a large majority of investment projects of less than €2 million); and (iii) the support is also available for competitors in a majority of RDPs.

Negative effects on trade were difficult to assess with relevant data. As many projects concern niche markets and very specific products, no statistics were publicly available on trade in the EU. The support is unlikely to cause undue negative effects on the internal market, considering aid intensities of 10-20% and the limited amounts of project support (around €200 000 corresponding to the level of general *de minimis*).

For larger projects with higher aid intensities (>20%) for SME, a negative effect on competitors cannot be excluded. Nevertheless, for most of the time competitors could also apply for aid (confirmed by contacted competitors in Finland and Germany).

Were the negative effects outweighed by the positive effects of the aid (e.g. benefits in terms of ecological and economic development, growth and jobs or public policy objectives)?

The investment projects are funded in the framework of rural development programmes. They mainly contribute to the third RD priority, namely promoting a food chain organisation with processing and marketing of agricultural products. A specific aspect concerns the better integration of farmers in the agri-food chain. This has been explicitly shown by the support of the Finnish and German RDP which are focused on local products, notably including contracts with farmers and their associations over a five-year period for nearly one-half of the supply. Projects also contribute to the fifth priority, promoting resource efficiency. Examples were found in Finnish and Spanish projects. Spanish projects also aim at generating value added in the region with supported projects.

These positive effects on rural development objectives outweigh limited negative effects on competitors and on trade.

7.2.3 Analysis

JC.1 Main final products (non-Annex I products) and markets targeted

Expenditures for investments concerning the processing of agricultural products into non-agricultural products have only been registered in four MS, namely Finland, Germany, Spain and Austria (not included in case studies). Public expenditure in support of projects is small (less than €2.6 million) and it was difficult to identify among Annex I products. Table 43 below shows the main agricultural product used for processing, the final products obtained and markets targeted, based on information from CS MS.

Table 43: Examples of products processed from Annex I to non-Annex I[162]

Input: Annex I product	Member State	Output: non-Annex I product	Market
Almonds and honey	Spain	Marzipan	Regional
Cereals	Germany	Salty snacks	Local
	Italy, Finland, Spain	Bread/bakery products including gluten free	Regional, national
	Finland	Alcohol products (breweries, distilleries),	
	Germany, Italy, Spain	Beer	Regional
Cereals and fruit	Germany	Mixed beer drinks	Regional
Meat	Finland, Germany	Meat products	Regional, national
Medicinal herbs	Italy	Homeopathic and cosmetic products	
Milk	Finland	Ice cream	Local
Soya beans	Germany	Plant based protein products	Regional, national and EU
Tomatoes	Spain	Tomato sauce, fried and other processed tomato	National
Potatoes	Finland, Germany	Potato salad, peeled potato	Local

Source: ADE, case studies

Finland supports only micro and small enterprises. About forty projects including non-Annex I products were supported, with an average project size of €257 000 (€8 000-€2 milion) and average support of €61 000. The aid intensity varies from 20% to 35%, the latter in sparsely-populated areas.

162 In Italy, support via RD measure 4.2 is mainly requested for two sectors: (i) agri-food, with main outputs being beer and bread; and (ii) cosmetics and medicinal herbs from undertakings in mountainous areas. Approximately 90% of the Italian requests received for support via measure 4.2 are for investments resulting in Annex I products.

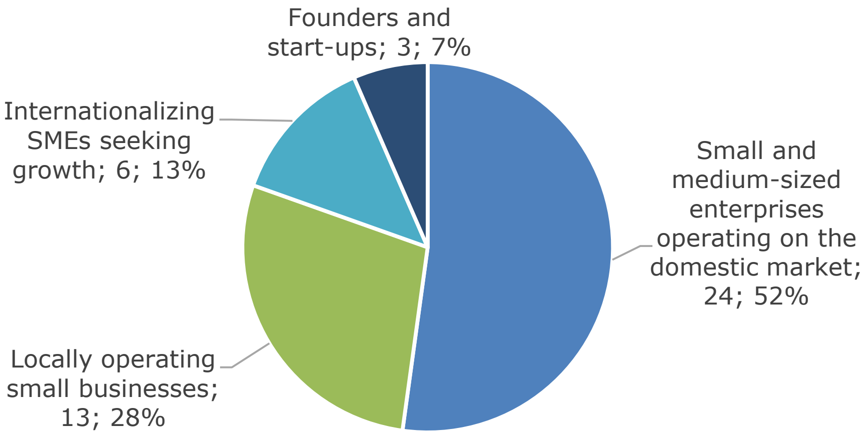
Germany. RDPs only support SMEs. The RDP of Baden-Württemberg supported five projects including non-Annex I projects (among over a hundred Annex I projects under the same support measure). Project size varies from €0.5 million to €2 million; support from €0.05-€0.2 million, with an aid intensity **also including large enterprises (one of the only two aid schemes at EU-28 level). In that region five projects were funded including non-Annex I projects. The project size vary from €0.1 million to €3.6 million, with an aid intensity of 10% for large enterprises and up to 23% for SMEs[163].**

Markets targeted in Finland

During the period **2014-2016**, the amount of State aid granted in **Finland** (via RD measure 4.2) for processing Annex I products into non-Annex I products was around €1.3 million with indicatively 46 projects[164]. Aid has been granted for investments such as bakery products, alcohol products (beer, distilleries), confectionery, ice cream, spices and oil, ready-made meals for restaurants and caterers, and so forth (see Annex 18 Table 40).

Finland is a relatively small market although distances are large, so sales markets can be divided between local, national and international markets (see Figure 21). Among the 40 indicative projects, most concern SMEs operating on the domestic market (25). Around 12 are small enterprises serving local markets; these include an ice cream plant that highlights on its website that it is a 'local treat' and that their sales outlets and many resellers all operate mainly close to the manufacturing site. A map of sales outlets on the website of another organic ice cream producer shows that its sales are concentrated in the Helsinki region. A small business producing fresh pasta from Finnish wheat and local outdoor eggs sells its produce mainly through Reiki local food groups of which an important characteristic is that the product is sourced locally. A small micro-brewery advertises its local roots and low carbon footprint as important selling points. These are all examples of supported enterprises serving local markets.

Figure 21: Distribution of non-Annex I projects in Finland by type of market.



Source: RDP for Mainland Finland 2014-2020; measure: 4.2 - Non-Annex I investment

Examples of companies serving more national markets include one selling fresh salads, fruit and vegetables and another selling peeled potato products to wholesalers, large kitchens and restaurants nation-wide. A company making gluten-free bakery products had obtained a contract with the large co-operative supermarket chain and needed financing to expand its facilities to service this large-scale customer. A monastery producing wines diversified into whisky. Only very few applicants (six) mentioned an ambition to enter international markets. One distillery project wished to expand production to meet Finnish and international demand for Finnish rye whisky and describes itself as an 'international craft distillery'. A company producing potato crisps also had the goal of 'strong internationalization' over the following five years.

[163] Castilla del Mancha is a transition region with a GDP/head between 75% and 90% of EU27 average.
[164] The exact classification of non Annex I is complex and figures are still changing (Finish MA).

Characteristic for all of these enterprises is their small scale, their focus on premium high-value niche markets, and often direct sales to customers. In many cases (e.g. the micro-breweries, ice cream manufacturers, potato crisp manufacturers) these markets are dominated by large multinational firms and the non-Annex I production stimulated by these measures is extremely small. In other cases (bakery products) the markets are inherently local so market impacts are more difficult to assess but in any case will be confined to very small areas.

Markets targeted in German regions

Two German RDP granted aid to projects during the examination period. The markets targeted were mainly local (production of potato salad) and regional (salty snacks, craft beers and mixed drinks). One example of a plant-based protein product concerned the national and EU market as presented in the box below.

Box 5: Example of a niche market in Germany

Tofu or soy cheese is a 2 000-year-old Chinese food, obtained by adding a coagulating agent to heat-treated soya milk. Tofu is a product included in the so-called plant protein market. It is a potential substitute for meat given its protein content.

Germany is a small producer of soya at EU level, and the EU is a very small producer compared to other regions (USA, Brazil) with less than 1% of world production. Only a small fraction of soya is used for human consumption (most production is used for animal feed). In Germany, soya production developed notably with the greening of the CAP. Areas increased from 5 000ha in 2012 to 19 000ha in 2017.

There are no statistics on Tofu production in the EU. Tofu is included in the plant protein market. Industrial producers are located among others in the Netherlands, Germany, Belgium and Austria.

Germany has a network of soya producers, including production for human consumption. According to this network there are around 20 companies involved in the production of Tofu. Only a few are comparable to the beneficiary in terms of production and turnover.The last-mentioned potential competitors have been contacted.

Markets targeted in Spain- Castilla del Mancha

In Castilla del Mancha, so far the five companies that have requested aid for non-Annex I products are active in the bakery (especially gluten-free flour) and pastry sector, processed tomatoes and marzipan. Indicatively data on the gluten-free flour market are presented.

The Spanish gluten-free market is growing at an estimated rate of 15% a year. There are no official statistics but market specialists' opinions converge to the effect that current market sales should be around €80m. There are currently more than 1 500 different products available for consumers, produced by all the main bread and cake makers and 20 specific "gluten-free" companies.

The main Spanish actor on the market is DULCESOl, which is exclusive provider of the major Spanish retailer, Mercadona, with a market share of 25%. Both Dr. Schär and Organ (two of the most important word actors in this market) are also present.

Half of the flour (classic flour and gluten-free) produced in Spain is obtained from imported cereals. In 2014 there were 135 industries active, in Castilla y León (22), Andalucía (21), Castilla La Mancha (20) and Cataluña (17) (see Annex 18).

JC.2 The overall balance of positive impacts (achieved or expected) exceeds the negative effects (observed or expected) on competitors and on trade

Intervention case study in Germany

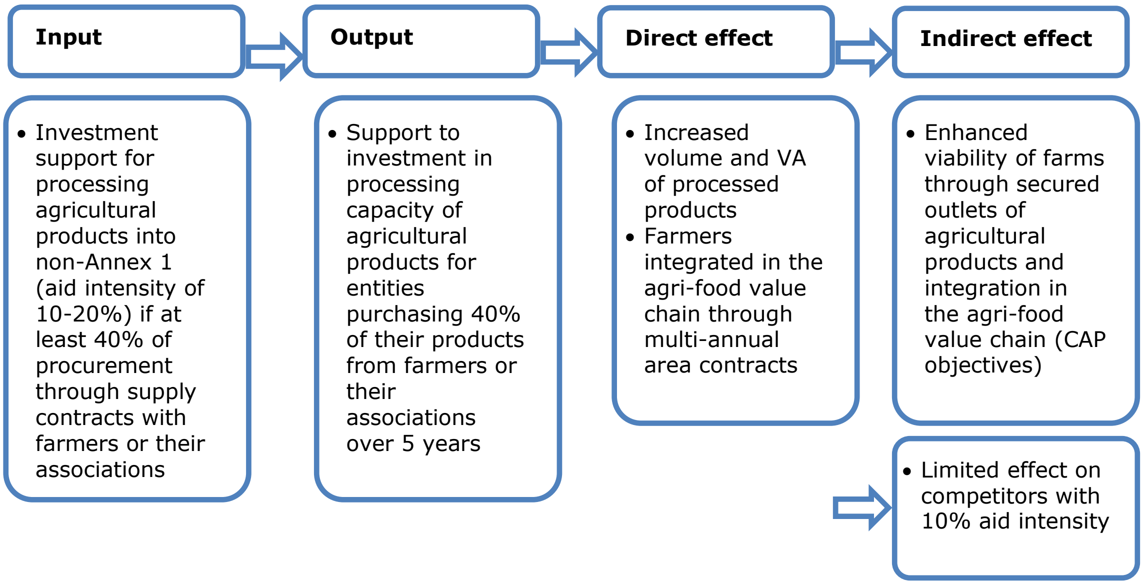
Four German RDPs include processing and marketing of agricultural products into agricultural products **and into non-Annex I products**[165]. Of these, aid was granted to projects in two RDPs (Baden-Württemberg (mainly) and North-Rhine-Westfalia).

[165] The block-exempted case SA.42000 is financed from federal and state funds. It is implemented in 4 German RDPs. It covers both processing and marketing of agricultural products into agricultural products and into non-Annex I. It also covers several RD measures including producer organisations, labelling etc. which are not concerned by Art. 44. Total expenditure of SA.42000 is €24 million; however, less than €700 000 is devoted to Art. 44. Expenditures come from Baden Württemberg (mainly) and North Rhine Westfalia. For Baden Württemberg, over over a hundred projects were submitted, of which only 5 concerned processing into non-Annex I products. This corresponds to 3% of total funding. Around €620 000 was paid for these 5 projects.

In both regions, the main objective of RD measure 4.2.1 is to promote integration of primary producers in the food value chain. To be eligible for support, **at least 40% of the volumes of agricultural products needed for processing must be based on supply contracts with farmers or farmers' associations for at least 5 years.** This is a strong condition with an important incentive effect.

An intervention case study has been developed with RDP managing authorities, the beneficiaries of and competitors for plant-based protein products. The intervention logic of support is represented in Figure 22.

Figure 22: Intervention logic for the support of processing agricultural products in the non-Annex I category



Source: ADE

In order to secure market opportunities in a competitive and growing market for plant-based protein products, the two following investments were undertaken: (i) increased automation of the production process and specific cleaning process; and (ii) a widening of the production range with an increase in production capacity (of 16%).

I.2.1 Direct effect on the beneficiary.

The investment was implemented in 2016, in order to gain efficiency through automation of production and cleaning. It also allowed the company to diversify by widening the production range. The investment cost was reduced by the amount of the support.

The incentive effect is included in the eligibility criteria which require a strong link between the processor and farmers: in order to be eligible for support, at least 40% of procurement of agricultural commodities must be provided from supply contracts with farmers or their associations over at least 5 years. The beneficiary has area contracts with around 75 organic farmers in Germany and in neighbouring regions or MS for a five-year period. The aid (depreciated over 5 years) represents 1% of current results (assuming that without support the same investment had taken place) (source: accounts of 2015 and 2016 were provided in the application form).

I.2.2 Indirect effects

RD objective promoting the integration of farmers in the food value chain. As mentioned above, the main objective of RD support is to promote integration of primary producers in the food value chain. In order to achieve this objective, beneficiaries of support must purchase at least 40% of the volumes of agricultural products to be processed through direct supply contracts with farmers or farmers associations for at least 5 years. This directly contributes to priority 3A of the RDR.

Effects for competitors. Industrial production of plant-based protein products is developing but it is still a small market (no statistics publicly available). Competitors in Germany and France were identified through data from a German network. The production is more developed in Germany than in France at industrial level[166].

The support is limited both (1) in terms of aid intensity (10%), (2) in absolute terms (around €100 000), (3) in the share it represents in the current results (less than 1% of current results), and (4) given that this type of support is available in other regions of the MS and in neighbouring MS. Considering these four elements, it is unlikely to cause an undue distortion of competition.

In Germany, among the approximately 20 companies mentioned by the network as involved in processing of soya for human consumption, only two were comparable in terms of final products. One of these companies is in a region with the possibility of support, the other not. The latter is producing tofu from imported beans (and thus not eligible for support).

The competitor (in a region with support) has a similar volume of production and turnover. The production is more diversified including a wide variety of plant drinks. The accounts showed similar figures. The competitor was granted aid through the general *de minimis* for similar amounts. He considered that conditions for support should be identical throughout the EU and all regions *(per se RDPs, regional aid and aid intensity varies across EU regions according to their level of development, isolation etc.).* Support is available in the region concerned. However, the competitor would have to adapt its procurement of agricultural commodities. Currently it would not fulfil the requirement of 40% of delivery of agricultural commodities from farmers or associations[167].

Effects on trade within the internal market. The beneficiary is marketing on the national and EU market. Around 45% of the production is exported, with no change in share due to the investment. No statistics are publicly available on the trade in tofu within the EU. Considering the aid intensity of 10% and the limited amount (€100 000), the support is unlikely to cause undue negative effects within the internal market.

I.2.3 Overall balance

Although negative effects on competitors and on the internal market cannot be excluded, they are very limited owing to the small aid intensity of 10% and the limited amount of support (€100 000). The positive effect of real integration of farmers or their associations in the value chain through area contracts over a 5-year period outweigh the limited negative effect of support.

The same approach has been developed for Spain and Finland and is summarised here.

Intervention case study in Spain

The objectives of RDP support aim to "improve the conditions in which the agri-food industries of the region transform and commercialize agricultural products to achieve greater added value in the processed products, improve quality and, consequently, improve their competitiveness in the market. "

I.2.1 Direct effect on the beneficiaries

The **beneficiaries** invest notably in new production lines, including new markets such as gluten- and allergen-free products. Investment costs are reduced (by 10-23% according to the aid intensity). Some investments also aim to improve the quality of products (processing of tomatoes) or to improve the energy efficiency.

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[166] In France a company in the neighboring region was contacted. It is a microenterprise producing on a very different scale based only on local production.

[167] Commodities are bought from brokers; they originated from the EU and India, and since 2017 from EU MS only.

I.2.2 Indirect effects

RD objective of VA, quality and competitiveness. According to data available in the application forms, the support improves the economic results of the beneficiaries, especially their value added. Some support also aims at improved energy efficiency. These improvements concern priorities 2A and 5 of the RDR.

Effects for competitors. All Spanish regions support SME for processing of agricultural products. Most RDP support processing until non-Annex I[168] products. The gluten-free flour is a growing market in Spain as in other EU MS (see Annex 18). There are no official statistics. Half of the flour (in general, not especially gluten-free) produced in Spain is obtained from imported cereals. In 2014 there were many processors in Spain (135), mainly SME of which 20 were in Castilla del Mancha. There are some large companies in the sector. The beneficiaries are not among the top 10 companies in the flour sector.

For large enterprises, the aid intensity of 10% and the relatively small size of the projects (€2.44 million and €0.45 million) is unlikely to cause undue distortion. Similar support could be provided by the general *de minimis*. For SME, the aid intensity can be higher. Competitors have the same access to support. However, for a project of €3.5 million and an aid intensity of 23% a limited effect on competitors cannot be excluded.

Effects on trade within the internal market. In terms of effect on trade on the internal market as a first element, products are traded only on the national market (>90%). However, no statistics are publicly available on the trade in the specific products (in particular gluten-free flour). The effect on trade on the internal market could not be assessed without the available data.

I.2.3 Overall balance

Although negative effects on competitors and on the internal market cannot be excluded, they are limited, in particular for the large enterprises, owing to the low aid intensity of 10% and the limited amount of support (€243 000). The positive effects on rural development objectives, in particular adding value to processed products, improving quality and, consequently, improving competitiveness in the market outweigh the limited negative effect of support.

Intervention case study in Finland

The objectives of RD support in food processing is better resource efficiency (efficient raw materials use and water management, more efficient use or saving of energy and water) and integration of primary production in the processing stage, as well as cooperation between farmers and food chain actors.

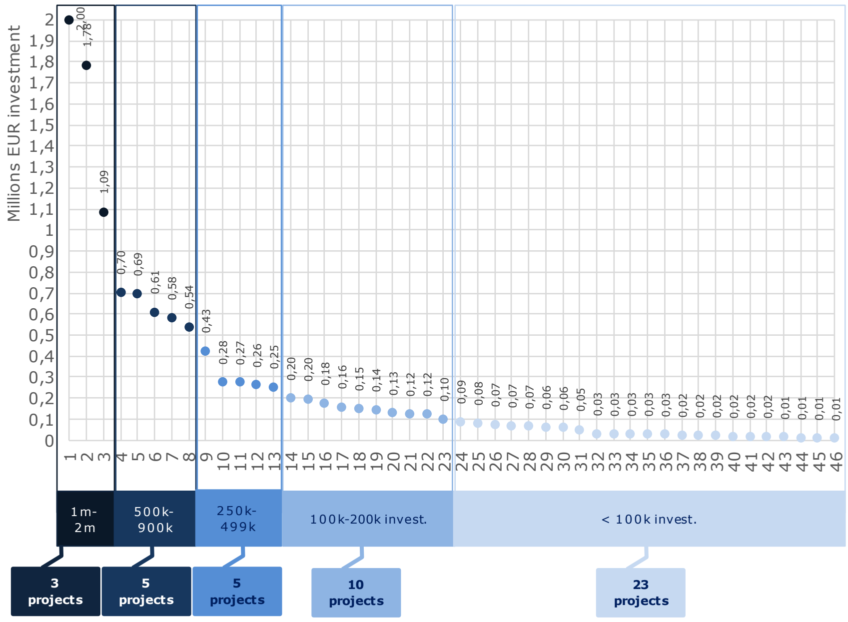
The policy objective is to have diversified production so that small, co-operative and service-oriented production and processing companies can operate side-by-side with existing larger enterprises.

In the allocation of support, the main emphasis is on growing and developing enterprises, co-operation between processing companies and primary producers, and the development of innovative and competitive products[169].

About 40 projects were funded, most of very small size with an investment of less than €0.5 million (Figure 23) (see Annex 18 Table 41).

[168] The following regions do not support processing until non Annex I: Asturias, Canary Islands, Rioja, Madrid and Navarra.
[169] Finland Ministry of Agriculture and Forestry (2014), Rural Development Programme for Mainland Finland 2014–2020.

Figure 23: Classification of the non-Annex I projects in Finland by size of project



Source: RDP for Mainland Finland 2014-2020; measure: 4.2 - Non-Annex I investment.

In particular, more detailed data was collected for four projects, namely coriander oil, whisky distillation, gluten-free bakery products and microbrewery. The main information is shown in Table 44 overleaf. Direct effects, indirect effects on competitors and on RD policy objectives are qualitatively assessed and presented in this Table. Projects concern specific niche products of small size. No data were publicly available for assessing the effect on trade.

I.2.1 Direct effect on the beneficiaries (see Table 44)

I.2.2 Indirect effects (see Table 44)

RD objective. Development of innovative and competitive products, processed from local agricultural products improving the integration of farmers in the food value chain.

Effects for competitors (see Table 44 plus statement). The point of view of a competitor of a whisky distillery was the following **"**Supporting of a start up company is OK as long as it equals to every company. Like we have received also investment support but our percentage is lower since we are in ”town area” or ”southern part of Finland”. Sometimes these supports can cause a distruption on the market and the pioneers of whisky makers, like us in Finland, are the ones who would hurt badly. So far I have not noticed any problems among whisky distillers off this. Also for the future I belive it will stay this way since the production litres are not huge in any of our competitors. But as allways it is difficult to predict the future.**”**

Effects on trade within the internal market. Data on trade of the specific subproducts are not available.

Table 44: Details on selected non-Annex I investments

Project name	Project activity	Rural type	Segmentation	Investment costs	Support	Aid intensity (%)	Direct effect	Neg effects	Positive effects
Follow-up project-creation of a whisky distillery	Distillation & mixing of alcoholic beverages; ethyl alcohol	Rural local centres (sparsely populated rural areas)	Internationalizing SMEs seeking growth	425 300	148 855	35%	Creation of a new activity	Limited due to small production (25-30kl to 75kl); confirmed by local competitor	Locally sourced barley with positive effects on local agricultural production and farmers
Distillation equipment for coriander oil	Spices, flavourings, drugs & medicinal plants (or spices sauces)	Rural heartland	SMEs operating on the domestic market	1 085 847	217 169	20%	Expected increase in turnover	Small market at world and EU level (Hungary, Russia, Ukraine); in theory company could produce 10 kl	Development of local coriander cropping with already contracts with 320 farmers; plant suited for crop rotation
GLU	Gluten free bakery products, bread, cakes	Rural heartland	SMEs operating on the domestic market	254 003	88 901	35%	Increase in turnover	Limited effect on competitors because fresh gluten free products are locally not available; market share at national level of 25%	Demand for locally sourced oat production
Microbrewery	High quality special beers	City frame area	SMEs operating on the domestic market	539 716	107 943	20%	Start up, turnover and VA	Focus on high quality special beers, small scale market, limited support; no competition with the price / volume with the industry's big players	New company and creation of jobs

Source: RDP for Mainland Finland 2014-2020; measure: 4.2 - Non-Annex I investment

I.2.3 Overall balance

The overall balance is in favour of the positive effects in line with the RD objectives. They outweigh any limited negative effects on competitors. Trade effects are supposedly absent or very limited. They could not be identified in the absence of such specific data.

Online survey

The State aid measure does not create distortion, according to 9 out of 13 respondents (see Annex 19 Table 42). Four MS stated that the investment support creates negligible distortions. The opinion is almost the same regarding the effect of State aid on other MS.

7.3 Coherence with underlying co-financed RD measures or top ups (EQ9)

7.3.1 Approach

Rationale and coverage. The EQ has two sub-questions: (i) to what extent are existing incoherences an obstacle to MS seeking to obtain SA clearance for rural development support? To what extent were the differences in the conditions under the State aid rules and rural development rules (concerning aid intensity and eligible costs) important for the decisions of the authorities in the MS on the design of the aid and for the investment decisions taken by beneficiaries?

The rules for State aid are defined in the respective regulations and in the guidelines. One of the objectives of the revision of the agricultural SA instruments is the alignment of the rules with the RDR[170]. This is discussed in this EQ regarding aid for investment in processing agricultural products into non-Annex I products.

Judgement criteria.

- JC.1 The rules of the RD measures and the corresponding State aid measures are coherent.
- JC.2 The different conditions under State aid rules and RDR (aid intensity, eligible costs) have influenced the design of the aid by the authorities in the MS.
- JC.3 The investment decisions taken by beneficiaries are affected by differences in the way eligible costs and aid intensity are scheduled in the regulations.

Methodology. The answer to the EQ includes a detailed analysis of the regulatory framework[171] and RDPs, qualitative data (interviews with RDP managing authorities) and quantitative data (implementation of the measures in RDP). It rests mainly on a triangulation of information.

7.3.2 Summary answer

EQ9: To what extent are the rules for the aid for investments in non-Annex I activities coherent with those for the underlying co-financed rural development measures or top-ups?
To what extent are existing incoherences an obstacle to Member States seeking to obtain SA clearance for rural development support. **To what extent were the differences in the conditions under the State aid rules and rural development rules (concerning aid intensity and eligible costs) important for the decisions of the authorities in Member States on the design of the aid and for the investment decisions taken by beneficiaries?**
Differences in the scope of ABER and the underlying co-financed RD measures are observed. Support for processing of agricultural products into non-Annex I products is provided by two different RD measures (see EQ7). RD measure 4.2 supports investments leading to Annex I and non-Annex I products. RD measure 6.4, however, also covers - besides non-Annex I products -

[170] European Commission, SWD(2014) 196 final, Commission Working Document, Impact Assessment Accompanying the document "European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020".

[171] The RD framework includes the RDR, the Delegated Regulation (EU) No 807/2014, the Implementing Regulation (EU) No 808/2014 and the Regulation (EU) 1303/2013 (the "horizontal regulation").

tourism, energy, culture and health.

All support envisaged under RD measure 6.4 supporting non-agricultural activities needs SA clearance whereas this is limited to non-Annex I products in RD measure 4.2. However, non-agricultural activities – and thus RD measure 6.4 - are excluded from the scope of ABER. Agricultural GL apply to all non-agricultural activities included in RD measure 6.4. However, no single aid scheme was notified during the examination period. Owing to the fact that agricultural block-exemption is not possible, these have been cleared by the horizontal SA instruments, mainly by *de minimis* or GBER.

The definition of beneficiaries is coherent between RDR and the agricultural SA instruments. These are mainly SMEs for RD measure 4.2 (ABER relating to SMEs only, agricultural GL applying to both SMEs and large enterprises). For RD measure 6.4 only micro and small enterprises are eligible and this is coherent with the agricultural GL. Eligible costs are also coherent between the RDR and the agricultural SA instruments.

Incoherence exist in terms of aid intensities defined by the agricultural SA instruments and the rules of the underlying RD measures. Aid intensities depend on the final product (Annex I or non-Annex I product) and differ according to type of region (less developed, outermost, "other"). For non-Annex I activities, ABER and agricultural GL provide aid intensities which are aligned on RAG and not on RDR, implying that the more favourable RDR aid intensity cannot be applied in certain regions.

The coexistence of products requiring SA clearance (non-Annex I activities) with Annex I products within the same investment support can be complicated. Some MS limit RDP support to Annex I only, others split applications (one for Annex I and one for non-Annex I products).

MS use different SA instruments to clear the underlying RD measures. Their choice is guided by efficiency concerns (ABER or GBER being much simpler), differences in rules (aid intensities) or eligible costs (covered differently by the horizontal SA instruments compared to the agricultural SA instruments).

Little information is available on the potential influence of differences in aid conditions on the investment decisions of beneficiaries. The latter consider aid intensities of 10% low compared to the burden linked to an application for support (Germany and Italy).

7.3.3 Analysis

JC.1 The rules of the RD measures and the corresponding State aid measures are coherent.

I.1.1 Comparison of the legal framework of the RDR with ABER and agricultural GL for non-Annex I activities.

The scope of the **investments in non-agricultural activities (including non-Annex I products)** differs between the RDR and the agricultural block-exemption regulation. As presented in EQ7, the RDR has has two different support measures for non-Annex I investments:

- RD measure 4.2 "support for investments in processing/marketing and/or development of agricultural products covered by Annex I of the Treaty". The output may be a product belonging to that Annex or not; *and*
- RD measure 6.4 "support for investments in creation and development of non-agricultural activities". This measure includes tourism, energy, culture, health and processing of agricultural products into non-Annex I products.

ABER Art. 44 covers only investments corresponding to RD measure 4.2 for non-Annex I activities. It does not provide for the possibility of block-exempting investments equivalent to those provided for under RD measure 6.4.

The agricultural GL covers selected parts of non-Annex I activities under RD measures 4.2 and 6.4 (investments in non-agricultural activities of micro- and small undertakings and individual persons in rural areas). However, not one MS has notified an aid scheme during the examination period for this support. MS used GBER or the general *de minimis* (see EQ7).

The definition of beneficiaries is coherent between RDR and the agricultural SA instruments. Regarding beneficiaries that invest in processing agricultural products into non-Annex I products (RD measure 4.2), ABER concerns SMEs only. The agricultural GL applies to aid granted to both SMEs and large enterprises. For investment in non-agricultural activities (which include non-Annex I products) relating to RD measure 6.4, only micro and small enterprises are eligible under the agricultural GL which is coherent with the RDR.

Eligible costs are consistent when comparing the RDR with ABER and the agricultural GL.

Differences are observed regarding the aid intensities defined by the agricultural SA instruments and the RDR. Aid intensities depend on the final product and differ according to type of region. For non-Annex I activities, ABER and agricultural GL provide aid intensities according to type of region which are aligned with the RAG (which does not apply to the agricultural sector). These aid intensities fully apply to investments in processing of agricultural products into non-Annex I products (considered to be industrial products). However, as such the 40% rate of support applied to "other" regions in the RDR (both for Annex I and non-Annex I products) cannot be applied to non-Annex I products given that ABER and agricultural GL are limited to 10%-20% in "other" regions (i.e. any "c" areas which are not NUTS 3 regions, non-predefined "c" areas or "c" areas adjacent to "a" areas) (see Table 45).

Table 45: Comparison of the aid intensity in the different legal instruments concerned

	RDR (Annex I and non-Annex I)	ABER	GL	GBER
Other regions*	40%	10%-20%	10%-20%	10-20%
Less developed regions	50%	35-60% + 10 pp. for MSE**	25-50% + 10 pp. for ME and 20 pp. for MSE	75% max
Outermost regions and SAI	75%	45-80% + 10 pp. for MSE	45-70% + 10 pp. for ME and 20 pp. for MSE	75% +

* any "c" areas which are not NUTS 3 regions, non-predefined "c" areas or "c" areas adjacent to "a" areas
**MSE=micro and small enterprises; SE=small enterprises; ME=medium enterprises

Source: ADE, based on legal instruments

The conditions under GBER and ABER are similar but sometimes wider in GBER for less developed regions. Aid intensities are different when comparing ABER with GBER (the alternative used by MS for clearance of RD measure 6.4). GBER concerns regional aid granted on the basis of Article 107(3)(a) TFEU, whereas investment aid under the the agricultural SA instruments is granted on the basis of Article 107(3)(c)[172]. Neither do the horizontal SA instruments provide a higher aid intensity.

I.1.2 The coexistence of products requiring SA clearance (non-Annex I) with Annex I products in a same investment support are an obstacle to using agricultural SA instruments.

The delineation of Annex I *versus* non-Annex I products can be complex in practice. In particular, some undertakings may process from the same agricultural product both Annex I and non-Annex I outputs. This existence of diverse end-products within the same undertaking complicates the evaluation procedure of grant applications. For this aid measure, one of the challenges is to distinguish between what is an Annex I product and what is a non-Annex I product, as this determines whether support to the project requires to be notified as State aid or not. The issue is relevant both to the definition of the input material used for further processing and the definition of the output. It is a particular problem in the case of novel products.

In **Finland** the example was given of a small business which produced stuffed bread rolls for take-away eating. While the output is clearly a non-Annex I product, several scenarios are possible: if the business starts with flour and bakes its own bread, then it would qualify for aid under this measure, but if it purchased its bread rolls from a baker, then it would not qualify for aid under this measure.

[172] TFEU Art. 107(3): The following may be considered to be compatible with the internal market: (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation; […] ; (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

Also **German** competent authorities underlined the complication in identifying Annex I and non-Annex I products. There is no difficulty as long as all products derived from a certain Annex I product are all considered as non-Annex I. However sometimes an Annex I product can deliver both Annex I and non-Annex I products after transformation and processing (e.g. meat). In order to simplify the procedure, separate applications must be prepared by beneficiaries depending on the end-product sought, which is time-consuming and creates more paperwork.

France confirmed that the definition of Annex I and non-Annex I products is complex. It is mainly based on the customs nomenclature. Some products are straightforward but others are not. It is not the degree of processing or type of processing that affects whether a product is in one category or the other. Meat preparations for instance must include more than 20% by weight of sausages, meat, offal, and so forth. This is the case with "pâté", but some types of sausages may be excluded. This latter difficulty was also mentioned in Germany. In order to simply the approach, the French competent authorities decided that Annex I should only be cleared by GBER (MAA, July 2018, information on State Aid).

The agricultural SA instruments show considerable differences with the underlying RDR (in particular with regard to aid intensities – see I.1.1) and are therefore not always the most appropriate. A majority of RDPs obtains SA clearance for RD measure 4.2 using instruments other than the agricultural SA instruments. Moreover, efficiency gains are observed by MS when using the horizontal SA instruments for the clearance of the underlying RD measures (see EQ7).

JC.2 The different conditions under State aid rules and RD rules (aid intensity, eligible costs) have influenced the design of the aid by the authorities in the MS.

The **Finnish** competent authorities underlined that aid intensity for investments are 20-35% (RDP) and 10-35% (Ministry of Employment and Economy) depending on where the investments are made (e.g. sparsely-populated areas) and the size of enterprise. In the case of non-agricultural activities, aid intensities have been aligned between RD measures 4.2 and 6.4 and also between ministries concerned in order to avoid "support shopping".

In **Italy**, mixed use of the different clearance instruments is observed. In fact, GBER and *de minimis* are also considered adequate to cover the needs of the Italian undertakings given that they are mainly SMEs. The authorities underlined that the rules and conditions of ABER, including different aid intensities, may potentially be a constraint, in particular for aid covered by RD measure 4.2. In fact, the aid intensity of 10% for medium-sized enterprises is seen as discouraging potential beneficiaries to apply for this measure. This point has also been confirmed by **Germany**.

While eligible costs are coherent between the agricultural State aid instruments and the RDR, differences with the horizontal SA instruments may guide the decisions of the MS. In fact, Finnish authorities expressed the need also to support "soft" activities, such as research and development, which are not eligible costs under the RDP and the agricultural SA instruments. In this respect, the GBER rules administered by DG COMP in defining eligible costs as tangible and intangible investments offer such support. It is possible to seek business aid from funds administered by the Ministry of Employment and the Economy provided the output is a non-Annex I product.

JC.3 The investment decisions taken by beneficiaries are affected by differences in the way eligible costs and aid intensity are scheduled in the regulations.

Little information is available on the potential influence of differences in aid conditions on investment decisions by beneficiaries. The latter consider aid intensities of 10% low as compared with the burden of an application for support (Germany and Italy).

8. THEME 4: EFFICENCY

8.1 To what extent have the revised SA instruments achieved simplification and a reduction of the administrative burden compared to the situation as it was when the revised SA instruments were put in place? (EQ10)

8.1.1 Approach

Rationale and coverage. The agricultural GL and ABER have been revised to align them with the new RDR rules, but also in the context of the general alignment of all SA instruments within the SAM initiative. They have been effective since July 2014. As also stated in the descriptive part, the revision allowed for more block exemptions by widening the scope of ABER for areas in which the Commission has experience and for which there is limited effect from competition. The scope of the agricultural GL was also widened. Furthermore, new rules and procedures were introduced in order to align with other relevant Regulations.

According to the impact assessment, the alignment of rules with RDR and the extension of ABER and agricultural GL should lead to a simplification and a reduction of the administrative burden[173]. This is translated in the specific objectives of the agricultural SA framework (see section 4.2 on the intervention logic of the SA framework). Hence, the EQ aims at verifying to what extent the revision of the SA instruments achieved its objectives of simplification and reduction of the administrative burden, as compared to the situation before the revision, that is prior to July 2014.

Judgement criteria.

- JC.1 The extension of the scope of ABER has led to a simplification and a reduction of the administrative burden at MS level.
- JC.2 The extension of the scope of the agricultural GL has led to a simplification and a reduction of the administrative burden at MS level.

Methodology. The approach to answering the EQ starts with a comparison of the current and previous agricultural SA frameworks. The number of aid schemes for the measures concerned in the examination period is compared with the reference period.

During the country case studies the advantages of the extension of ABER and agricultural GL, on the one hand, and the alignment of the RDR and SA procedures, on the other, were discussed with the competent authorities. This opportunity allowed collection of evidence of improvements as compared to the previous period. Additional information on the administrative burden experienced by public authorities granting aid and Commission Services was collected *via* the online survey and interviews. This information added qualitative inputs to the different indicators.

8.1.2 Summary answer

EQ10: To what extent have the revised SA instruments achieved simplification and a reduction of the administrative burden compared to the situation as it was when the revised SA instruments were put in place?
By nature, ABER is a simplier and more efficient approach to granting State aid (quick implementation). The expansion of its scope with additional measures has therefore contributed significantly to simplification and to a reduced administrative burden. In particular, the evaluation found **positive effects with respect to the revision of ABER for the two forestry measures.** The competent authorities indicated that the current procedures constituted a real simplification and reduced the administrative burden. This is evident from the case studies, but also from the online survey in which most of the national officials in charge of State aid (respondents) confirmed favourable effects in terms of the time for preparing and introducing agricultural State aid;

[173] The simplification of State aid rules in the agricultural and forestry sector and in rural areas has been identified as a REFIT initiative. The Commission's Regulatory Fitness and Performance (REFIT) programme ensures that EU legislation delivers results for citizens and businesses effectively, efficiently and at minimum cost. REFIT aims to keep EU law simple, remove unnecessary burdens and adapt existing legislation without compromising on policy objectives. https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly_en.

administrative effort; understanding of definitions, common principles, framework, and so forth. About 20% of the respondents did not agree with the reduction of the administrative effort and the simplification of the monitoring.

The use of ABER for forestry measures increased significantly; slightly over 40% of survey respondents stated that the extension of ABER's scope covering forestry measures had an impact in term of the efficiency of the management of State aid. Here about 20% also considered it a "limited improvement".

ABER led to simplification as far as non-Annex I products are concerned under **RD measure 4.2.** The procedure had so far been used in 16 of the 55 RDPs including non-Annex I support. However, the revision did not satisfactorily cover RD measure 6.4 given that this measure covers a series of rural activities.

The extension of the scope of the agricultural GL offered the opportunity to notify aid schemes to compensate for damage caused by protected animals. This has extensively been used by MS confronted with such needs.

The efforts to define and clarify the revised framework of guidelines have been widely appreciated but have not, in the opinion of the respondents, reduced the administrative burden. Some interviewees underlined the complexity of the new agricultural GL, as for example the need to check all common assessment principles.

8.1.3 Analysis

JC.1 The extension of the scope of ABER led to a simplification and a reduction of the administrative burden at MS level.

The extension of the scope of ABER therefore contributes automatically to simplification and a reduction of the administrative burden at MS level. While a notification procedure takes on average half a year from the moment of submission of the notification up until the adoption of the authorising decision by the Commission, a block-exempted measure can be started within a very short period of time without prior authorisation from the Commission. In fact, MS transmit to the Commission a summary information form *via* the Commission's State aid notification interactive "SANI", following which the Commission sends to the MS within ten working days a notice of receipt with an identification number for the aid measure. Furthermore, it publishes the summary information in its State aid database (managed by DG COMP).

I.1.1 Mapping of the use of ABER with regards to the "new" aid measures and comparison with the reference period (where possible).

As outlined in the descriptive part as well as in Themes 2 and 3, the scope of the ABER has been extended with a number of aid measures. They include the two forestry measures studied by this evaluation (protection and restoration from damage to forests and forest investment support) and non-Annex I measures[174]. Before 2014, those measures were covered as follows: forestry prevention and restoration was included in the agricultural GL only, while the other two measures were not covered by the agricultural SA instruments at all. The block exemption procedure is considered as a simple procedure, which takes about 10 days in general[175]. By expanding its scope to new measures, simplification and a reduction of the administrative burden is expected (see Section 4.2). Figure 4 in Annex 1 illustrates the scope of the current and former agricultural SA framework with regard to these measures, as well as the coverage of the concerned measures by the horizontal SA instruments.

MS mainly use the ABER for clearance of the forestry measures, with an increased number of registered aid schemes for prevention and restoration of forests from damage as compared to the reference period.

[174] Inclusion in ABER and agricultural GL of aid for investments concerning the processing of agricultural products into non-agricultural products provided that such measures are granted in the framework of an RDP. It has to be noted that the agricultural GL only integrated partially the support for investments in non-Annex I activities defined by the RDR (see EQ7).

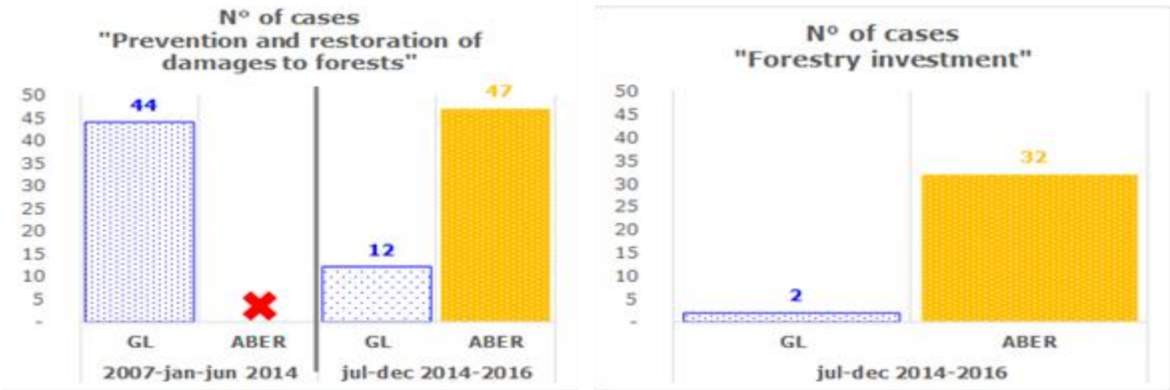
[175] To be compared TO the use of the agricultural GL, which requires a more lengthy procedure that takes a minimum of 2 months but on average 6 months (see EQ3), involving several DGs who examine the notification, including DG Competition, DG Environment, etc.

As outlined in EQ4, **only four MS do not use forestry support measures. D**uring the examination period there are 80 aid schemes for the two forestry measures, of which 14 notified aid schemes and 66 block-exempted schemes are at EU-28 level.

With regard to prevention and restoration of forest from damage, the total number of aid schemes has increased from 44 notified schemes during the reference period to 59 schemes (12 notified and 47 block-exempted) during the examination period. This shows clearly that ABER is being used and that by 2016 it was already more used than the agricultural GL over the entire previous period.

Moreover, for the forestry investment measure ABER was much more used than the agricultural Guidelines during the examination period. It is however not possible to compare the use with the reference period, as this measure was not covered by the agricultural SA instruments at the time. Figure 24 illustrates the increased use of forestry measures.

Figure 24: Number of aid schemes covering the forestry measures block-exempted and notified.



Source: ADE, based on DG COMP

MS use the ABER for clearance of RD measure 4.2; but its number is lower compared to the use of the horizontal SA instruments for the clearance of this measure.

As outlined in EQ7, the RDR foresees support to non-Annex I activities *via* two RD measures, namely RD measure 4.2 (support for investments in processing or marketing, or in development of agricultural products) and RD measure 6.4 (support for investments in creation and development of non-agricultural activities). **While RD measure 4.2 is covered by both ABER and the agricultural GL, RD measure 6.4 is only covered by the agricultural GL**.

Analysis of the 83 RDPs of the 8 CS MS showed that 55 include support for investments in non-Annex I activities defined by RD measure 4.2. Of those, 16 obtained clearance based on ABER. Clearance for this type of support foreseen in the other RDPs has been achieved based on the horizontal SA instruments (the general *de minimis*, GBER, RAG) (see Section 4).

Comparison with the reference period is not possible. In the past, non-Annex I products produced from agricultural products (Annex I) were considered as industrial products. They were excluded from agricultural SA instruments over the 2007-2013 period (see EQ7).

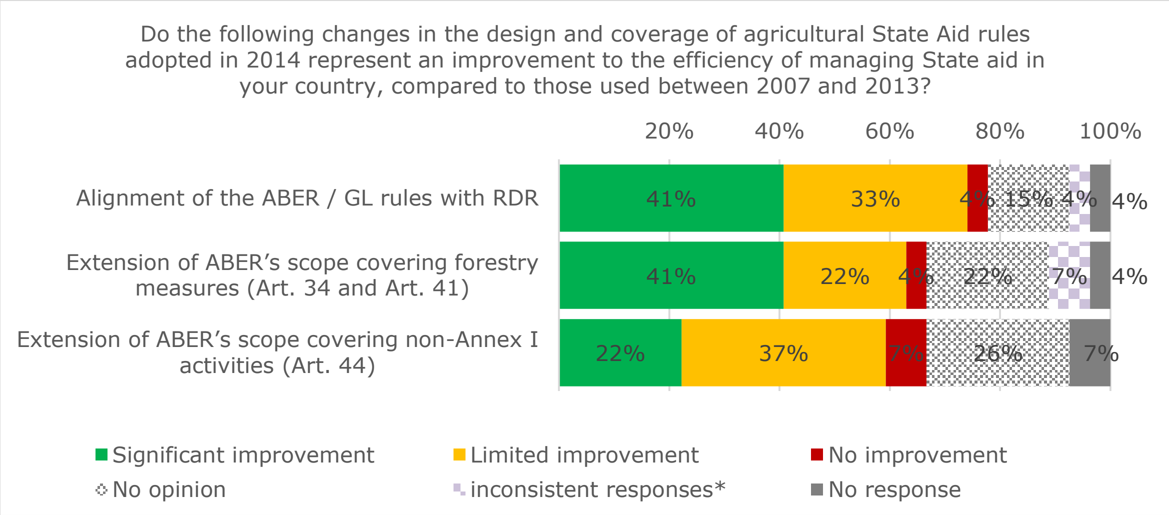
I.1.2 Evidence of revised scope contributing to simplification.

Figure 25 below provides a summary of the elements respondents considered to be an improvement in terms of efficient State Aid management, compared to the reference period. The following were considered by 41% (N=27) as a significant improvement:

- Alignment of the ABER / Guidelines rules with RDR (41%); *and*
- Extension of ABER's scope covering forestry measures (41%).

But between 22% and 33% of respondents considered that the changes constituted a "limited" improvement. Furthermore, depending on the changes, between 19% and 33% indicated they had no opinion in this respect (or did not respond).

Figure 25: Survey results on the impact of design and coverage changes in terms of efficiency of the management of State aid (N=27)



Source: ADE, online survey conducted among EU-28 competent authorities

The limited use of the ABER or agricultural GL for the non-Annex I measure, despite the potential to do so, is related to different factors. MS invoked different types of argument to explain that they preferred to continue with the other (horizontal) SA clearance instruments, *viz.*:

- nearly half of the survey respondents (44%) stated that the extension of ABER's scope to non-Annex I activities covering only RD measure 4.2 represented limited or no improvement in terms of efficient management of State aid;
- some explained that in previous periods they had used other instruments for clearance and preferred to continue to do so, as they did not see the value added of using ABER as compared to GBER (e.g. France);
- certain regions (e.g. certain Länder in Germany) have not used State aid for this type of measure, considering (i) the administrative workload far too important compared to the support provided, (ii) the limited aid intensity in comparison with the 40% allowed by the RDPs for Annex I activities (see EQ9);
- the frontiers between products falling under Annex I and those under non-Annex I activities can be complicated in practice (e.g. a given operator investing in processing of meat into meat products with some end products being Annex I and others not; similar for processing of milk into yoghurt (Annex I if with or without sugar, non-Annex I if fruit or flavours are added[176]) (see EQ9).

I.1.3 Evidence of simplification and reduction of administrative burden achieved by using the exemption procedure.

Several elements indicate that when MS increasingly used ABER, this was precisely because it allowed simplification and a reduction of the administrative burden.

EQ7 illustrated already that the choice of competent authorities (Finland, Spain) as regards the use of one of the agricultural SA instruments to clear support related to non-Annex I investments (in the case of RD measure 4.2) is based on efficiency considerations. The extension procedure is seen as efficient and imposing the lowest administrative burden (comparing ABER, agricultural GL and GBER). While the possibility of having preliminary discussions with the relevant DG AGRI desk officer in the case of block-exempted aid schemes might potentially delay their implementation, its advantages were considered more important. Besides, the competent authorities state that such a delay is still significantly shorter than for a notification.

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[176] Source: Annex I of COM Regulation (EU) No 1308/2013 PART XVI Milk and milk products CN code 0403 10 11 to 0403 10 39; 0403 9011 to 0403 90 69: The milk and milk products sector shall cover the products listed in the following table: "Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter not flavoured nor containing added fruit, nuts or cocoa".

The majority of survey respondents agreed that the revision of ABER (revised scope, definitions, alignment with RDR) had benefits in terms of simplification and reduction of the administrative burden. For forestry, however, the question of the necessity of using the ABER procedure was raised, given the already long and detailed RDP procedure including State aid considerations.

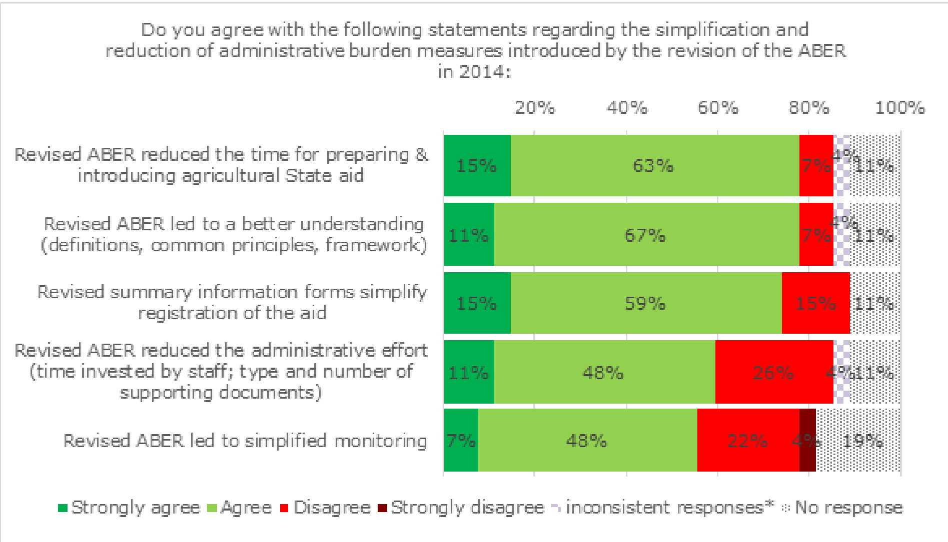
In particular they confirmed the following elements (N=27):

- It reduced the time for preparing and introducing agricultural State aid and led to better understanding (definitions, common principles, framework) (78% of national officials in charge of State aid agree). For example, the Finnish and Spanish competent authorities underlined the advantages of the ABER process. In fact they are able to engage in preliminary discussions with the relevant DG AGRI desk officer on a potential State aid registration, and many problems relating to the compatibility of the national proposal with the ABER can be resolved at this stage. This advice may extend the time for registration, which however is still estimated to be significantly lower than for the notification procedure.
- The revised summary information forms simplified registration of the aid (74% agree).
- It reduced the administrative effort, that is, time invested by staff, type and number of supporting documents (59% agree).
- It simplified monitoring (50% agree, but 20% of respondents did not express an opinion on this aspect).

But more than 20% of respondents explicitly disagreed on some of the issues, notably with respect to the reduction of the administrative effort (26%), and the simplification of the monitoring (26%). About 15% also disagreed that the revised summary information forms simplified the registration of the aid (Figure 26).

While still appreciated by over 50% of respondents, some MS do not agree that the revised ABER led to simplification. MS referred to the increased content of the regulation (Finland) as well as to transparency and information obligations which are new (the Netherlands). While these requirements are appreciated for its results, they do however create additional work for the MS and for the individual beneficiaries.

Figure 26: Respondents' views on the simplification and reduction of administrative burden introduced by the current ABER (N=27)



Source: ADE, survey conducted among EU-28 competent authorities

JC.2 The extension of the scope of the agricultural GL has led to a simplification and a reduction of the administrative burden at MS level.

I.2.1 Mapping of the use of the notification procedure with regard to aid related to damage caused by protected animals and comparison with the reference period (when possible).

The scope of the agricultural Guidelines has been expanded with the aid for damage caused by protected animals. Before 2014 there was no clearance procedure for this type of aid in the agricultural SA framework. *De minimis* aid had to be used or notification was necessary directly on the basis of Art. 107 of the TFEU.

As already indicated in EQ1, the possibility of notification under the agricultural GL is increasingly used during the examination period (see Table 46). Indeed, MS need time to become familiar with and notify these aid schemes.

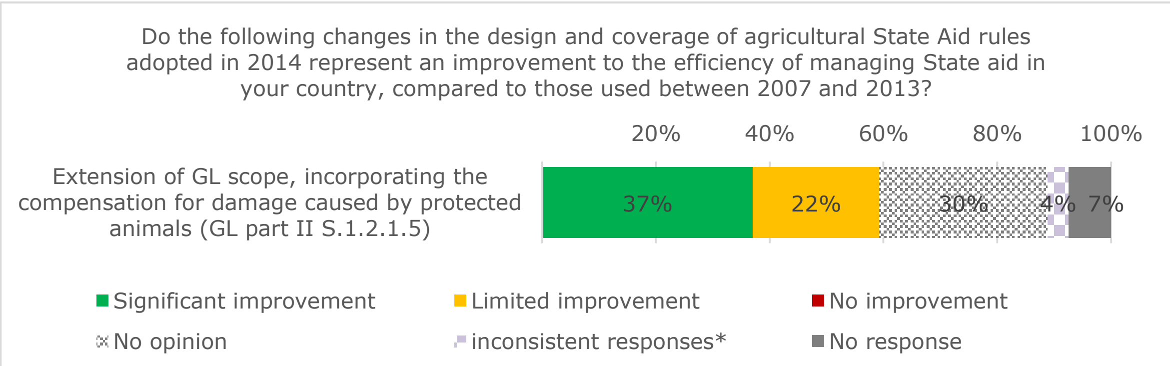
Table 46: Evolution of use of aid related to protected animals during the examination period

MS	2015			2016			TOTAL		
	num. of cases	*num. of cases having exp.*	**Expenditure EUR M**	*num. of cases*	*num. of cases having exp.*	**Expenditure EUR M**	*num. of cases*	*num. of cases having exp.*	**Expenditure EUR M**
Austria				1		-	1		-
Finland	1	1	1,46				1	1	1,46
Germany				2	1	0,46	2	1	0,46
Italy				3	2	0,94	3	2	0,94
Lithuania	1	1	0,38				1	1	0,38
Sweden				1	1	1,70	1	1	1,70
TOTAL	2	2	1,85	7	4	3,10	9	6	4,95

Source: ADE, on the basis of data from DG COMP

The survey provides mixed results: 37% of respondents considered this a significant improvement in terms of efficiency, 22% considered it a limited improvement compared to the previous period. A similar share, 37%, did not express any opinion (N=27). The number of people without an opinion can be explained by the fact that some MS are not faced with this type of need.

Figure 27: Survey results on the simplification and reduction of administrative burden (N=27)



Source: ADE, survey conducted among EU-28 competent authorities

That said, some competent authorities explained that the conditions for clearance could be clarified on the following points:

- The agricultural GL set out the conditions for a contribution from the beneficiaries, in the form of reasonable preventative measures. Relevant preventative measures need to be identified in a context in which farming practices evolved in the absence of large carnivores.

- Eligible costs are considered to be a constraint. The market value of the animal killed does not appropriately cover the cost of the damage, particularly in the case of dairy ewes. The market value rests mainly on the meat value of an animal. However, when losing dairy ewes the farmer is also losing milk and cheese production capacity, and so forth. The French livestock institute is currently establishing a grid with indicative market values for dairy ewes.
- The reason for having different aid intensity between direct (100%) and indirect (80%) costs is not clear to the MS.

I.1.2 Evidence of simplification and reduction of administrative burden achieved by using the notification procedure.

There is no simplification of the 2014-2020 agricultural GL for forestry measures as compared to the previous 2007-2013 GL.
For forestry measures, CS MS (Germany, France) report that the agricultural GL have become very complex when compared with the previous period. This complexity is not due to the increased number of measures covered (currently around 63 - not only forestry - compared to around 20 in the period 2007-2013). The alignment of the agricultural GL on more industrial aspects has extensively complicated the application forms. The ten pages of questions in the application form on common principles make matters very complex. They are not always adapted to the forestry sector.

Several elements suggest that the effects of the revision of the agricultural GL on the reduction of administrative burden have been less than for ABER**.**

- interviews in case study countries do not point to a reduction of the administrative burden;
- the time for clearance is reasonable on average (157 days) but with still important disparities: the clearance process may vary from 26 to 484 days:
  - in some extreme cases there were several rounds of demands for clarifications from the Commission Services and reactions from MS;
  - in other cases the revision allowed a very swift clearance despite the complexity of the aid scheme (e.g. H5N1 in France);
- in addition, some interviewees explained that one should also bear in mind that the official time-span does not take into account the time required for informal exchanges.

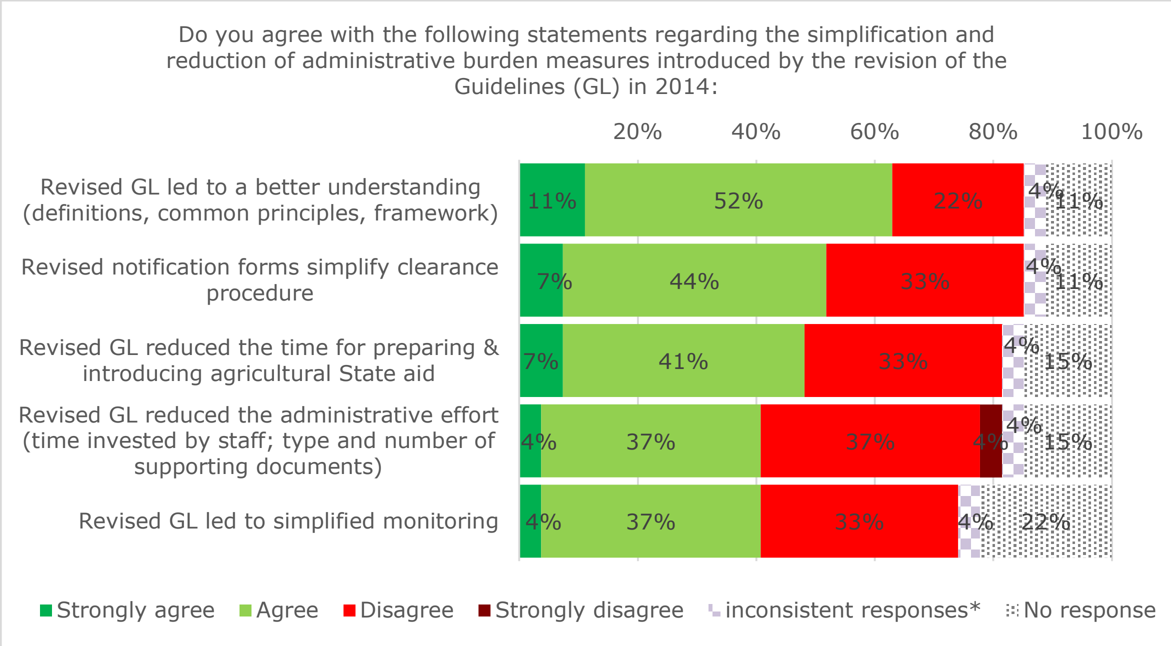
Finally, some MS, while appreciating the Commission's efforts to facilitate clearance, explained that they regarded the Guidelines as particularly complex and that for that reason they do not use the notification procedure (see Figure 28).

Between 41% and 63% of national officials in charge of State aid agree that the revised Guidelines led to simplification and reduction of administrative burden in the sense that it led to (i) a better understanding of definitions and common principles (63% of national officials agree), and (ii) simplified clearance procedure through revised forms (51% agree).

However, respondents noted that the rules of the agricultural SA framework 2014-2020 are considerably more detailed and complex than those previously in force. For example, the agricultural GL document increased in length from 33 to 97 pages, and the ABER Regulation from 19 to 32 pages. Also the application form has become more complicated. Respondents could see advantages with the greater level of prescribed detail; it helps MS better understand the process and learn how the Commission thinks when evaluating State aid, and in this sense it contributes to greater legal certainty.

Between 33% and 41% of respondents (N=27) disagree that the revision of Guidelines reduced time for preparing agricultural State aid, simplified monitoring and reduced the administrative effort. This perception may vary according to the sector specificities of State aid implementation. For example, in the forestry sector the strict application of the seven common principles set by the industry for small scale forestry operations including municipalities does not seem proportionate (Germany, France).

Figure 28: Respondents' views on the simplification and reduction of administrative burden introduced by the current agricultural GL (N=27)



Source: ADE, survey conducted among EU-28 competent authorities

9. THEME 5: EU ADDED VALUE

9.1 To what extent have the State aid rules ensured EU added value? (EQ11)

9.1.1 Approach

Rationale and coverage. This EQ aims at assessing whether the objectives set forward by the State aid policy and rules have been better achieved by Union action than by potential variegated action by MS and the private sector[177].

In this case, the first level to be considered is the value added generated by a policy defined at EU level through a political process and leading to a common regulation to foster the internal market. In fact, Art. 107(1) of the Treaty stipulates that "any aid granted by a MS 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 MS, be incompatible with the internal market." State aid may be necessary to address market failures, and the Treaty leaves room for the granting of it in respect of several policy objectives and in line with the conditions and criteria set out in the State aid regulations and rules (*inter alia* the agricultural SA framework). Moreover, State aid to promote the economic development of the agricultural and forestry sectors and of rural areas is embedded in the broader CAP.

The assessment for this EQ addresses the extent to which the agricultural SA framework has permitted an alignment of MS policies and better coordination.

Judgement criteria.

- JC.1 Agricultural State aid rules offer legal certainty to public intervention in MS.
- JC.2 Agricultural State aid rules offer coherence between EU financed measures and pure State aid.
- JC.3 Agricultural State aid rules facilitate public intervention to respond to specific needs in terms of agricultural and forestry risk management in the MS.
- JC.4 Agricultural State aid rules limit market distortions among MS.

Methodology. The approach to answering the EQ consists mainly of a qualitative analysis based on information collected from the desk review (comparison of regulations, alignment of State aid rules, etc.). The information from the desk review is further complemented by views from the Commission Services as well as by the public authorities granting aid, collected during the case studies as well as from the online survey conducted among the EU-28 competent authorities.

Information from other EQs is instrumental in further understanding the rational and value-added stemming from the agricultural State aid rules (for example, EQ3 related to the motivation for the selection of a certain procedure).

9.1.2 Summary answer

EQ11: To what extent have the State aid rules ensured EU added value?
MS recognize the need to have rules at EU level that allow limitation on the risk of distortion. In the absence of such guidance MS could take different approaches, which might end up with market distortion and inequality. MS make a positive assessment of the support provided by the Commission and express their positive assessment on the following points: • more complex application helps MS better understand the process and learn how the Commission thinks when evaluating State aid; • training provided by the Commission to MS is considered very positive; • offering guarantees of legal certainty to public interventions; • increased transparency.

[177] SWD(2015)111 final, Commission staff working document, Better Regulation Guidelines and Better Regulation « Toolbox » ; https://ec.europa.eu/info/better-regulation-guidelines-and-toolbox_en.

The revised SA instruments have strengthened the coherence between the RD measures and the State aid even if in certain cases there are still differences in the conditions, which are more favourable in the RDPs compared to ABER/GL for support to non-Annex I products and less favourable in the RDPs with respect to the payment of insurance premiums. Coherence is stronger for forestry measures. Despite this strengthening of coherence, stakeholders did not understand the rationale of a double procedure – RDP and SA clearance through ABER – for the same type of support (forestry measures included in a RDP).

Agricultural State aid rules facilitate public interventions to response to specific needs in terms of agricultural and forestry risk management in the different EU MS. It forces MS to think about the policy framework in which support takes place (e.g. compensation of damage from protected animals). This is not true for the general *de minimis,* for instance, which provides support without a framework.

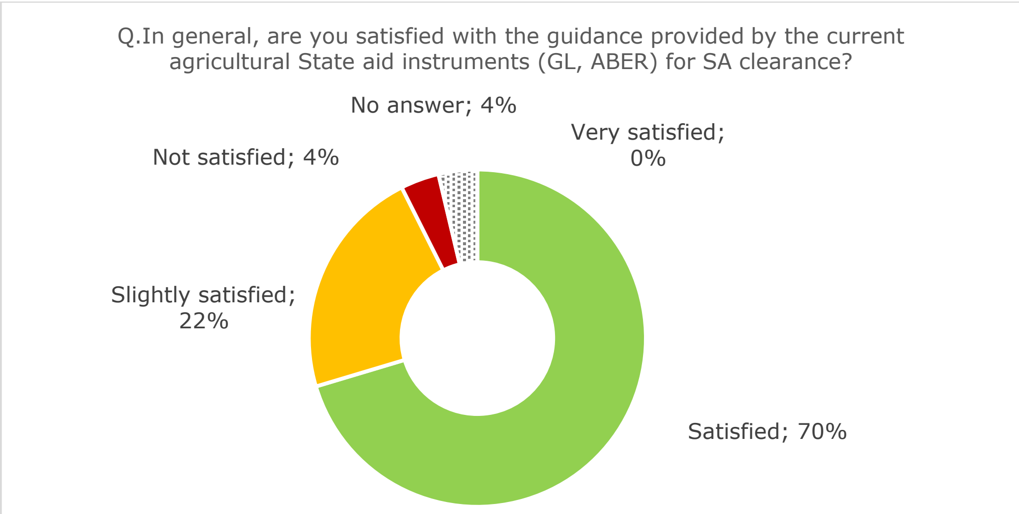
The wide distribution of the various measures related to prevention or compensation measures among MS show that they respond to specific needs. This is confirmed by the survey results.

9.1.3 Analysis

JC.1 Agricultural State aid rules offer legal certainty to public intervention in MS.

MS make a positive assessment of the guidance provided by the rules. A majority of survey respondents (19 out of 27 or 70%) declared they were satisfied with the guidance provided by the current agricultural SA instruments for SA clearance. Six respondents (22%) indicated they were "slightly satisfied" and one (4%) indicated dissatisfaction.

Figure 29: Satisfaction of guidance provided by current agricultural SA instruments (N=27)



Source: ADE, survey conducted among EU-28 competent authorities

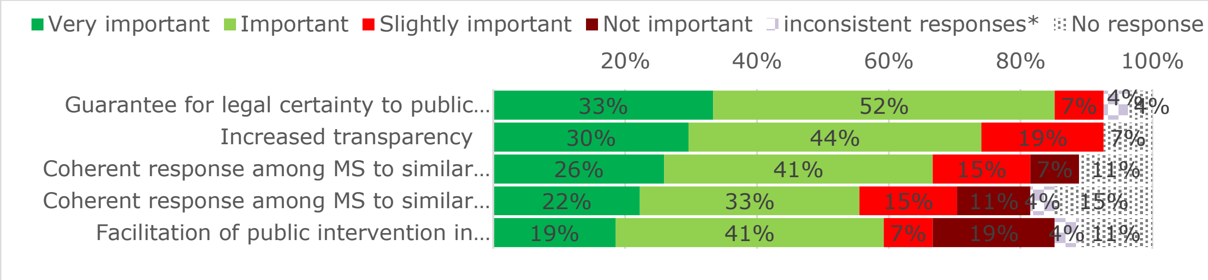
Finnish authorities also stated that while forms are more complex (see EQ7), the current rules contribute to greater legal certainty. This observation is shared by many other MS, as shown in Figure 30. The rules and regulations create a framework offering legal certainty – and in particular for the agricultural GL – for public intervention **(87% of respondents (N=27) confirm that this is important or very important)**.

This was in particular highlighted by the German authorities in relation to aid for animal diseases and plant pests. Such issues are perceived as very complex. While the exemption procedure is adequate, authorities believed the risk of having aid declared unlawful to be too high. Therefore, given the complexity, preference goes to the notification of such aid schemes.

According to the **Spanish** competent authorities, legal support is provided by the EU SA framework for the Spanish risk management policy. This basis is not provided through the CAP. The EU SA framework also gives legal support for specific aid schemes adapted to the local conditions under which a common framework is difficult to implement.

Furthermore, 73% of respondents agreed that increased transparency is as well perceived as the added value of common EU rules. This transparency is obtained by the publication requirement stipulated by ABER Art. 9(2) and GL §(128) as well as the publication of all aid schemes in the public database from DG COMP.

Figure 30: Respondents' views on EU added value of the agricultural SA instruments (N=27): [...] do the following aspects constitute a EU added value of the agricultural SA instruments; [...] what is their importance compared to the actions undertaken by MS only?



Source: ADE, survey conducted among EU-28 competent authorities

JC.2 Agricultural State aid rules offer coherence between EU-financed measures and pure State aid.

The rules allow clearance for public support for forestry measures, which are the same across the EU MS. Most MS fund prevention and restoration of damage to forests both in a RDP and as pure State aid. Fewer MS fund forestry investments, mainly in RDPs (see EQ4). The rules allow State aid covering forestry measures of the RDPs and also RD-like measures funded without an RDP.

The rules allow State aid for RD measures related to non-Annex I products. Many MS fund the processing of agricultural products into non-agricultural products (non-Annex I) in their RDPs. Only a few clear this State aid through the agricultural SA instruments (see EQ7 JC.1). The different conditions in terms of aid intensity and the limited matching between Art. 44/§3.1 with the underlying RD measures (4.2 and 6.4) explain the limited use. MS prefer to rely on other SA instruments for clearance.

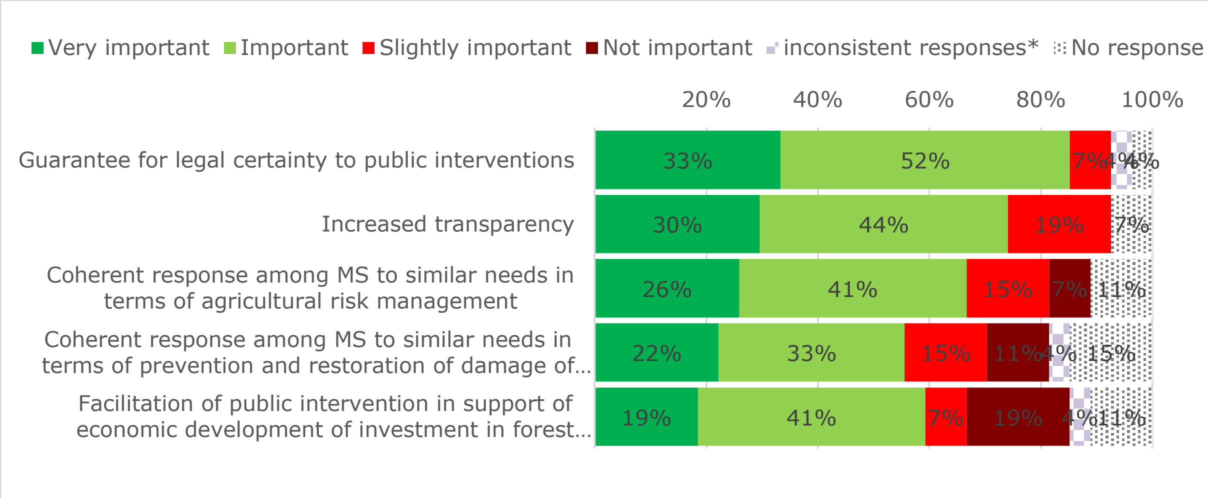
State aid rules allow broadening of measures related to animal diseases and plant pests, prevention and restoration of damage to forests, and forestry investments with regard to national financing. MS that wish to finance RD-like measures through public financing use the notifications through the agricultural GL. This is the case for instance with MS that wish to have geographical coherence and intervene in regions that have not included this measure in their RDP. It also applies to regions that do not wish to mobilize the RDP for these measures and prefer to use only regional public funding to finance them.

The rules allow financing of State aid that is related to the needs of the agricultural sector but is not included in the RDP, for example the measures related to adverse climatic events, animal diseases and plant pests, fallen stock and protected animals. This is of particular importance for animal diseases and plant pests. As stated by the Polish competent authorities, a common approach is necessary to protect the agriculture, livestock and environment in the wider sense. The SA framework guides support for undertakings in relation to the aforementioned, and offers a framework for action (in coherence with the other relevant EU regulations in relation to animal health).

The rules allow financing State aid for the payment of insurance premiums. MS use such State aid as it has not been provide for in the RDPs. Some MS justify this choice by arguing that the conditions are less restrictive than those of the RDPs.

To conclude, the rules of ABER and the Guidelines have strengthened the coherence between RD measures and State aid, even if in some cases differences still remain. These are more favourable in the RDPs compared to ABER and the Guidelines for processing of agricultural products into non-Annex I products, and less favourable in the RDPs with respect to the payment of insurance premiums. Coherence is stronger for forestry measures. Despite this strengthening of coherence, stakeholders did not understand the rationale of a double procedure – RDP and ABER SA clearance – for the same type of support (forestry measures in particular).

Figure 31: Respondents views on EU added value of the agricultural SA instruments (N=27): [...] do the following aspects constitute a EU added value of the agricultural SA instruments; [...] what is their importance compared to the actions undertaken by MS only?



Source: ADE, survey conducted among EU-28 competent authorities

JC.3 Agricultural State aid rules facilitate public intervention to respond to specific needs in terms of agricultural and forestry risk management in the EU MS.

Most of the public interventions in the agricultural and forestry sectors are carried out in the framework of the CAP and EU Health policy. As already mentioned, the aid measures represent a limited part of public interventions in the sector. Nevertheless, as shown under EQ1 on risk management and EQ4 on forestry measures, they are useful to addressing specific needs in MS.

The fact that the rules facilitate public interventions in support for economic development (through investment in (i) forest technologies, processing, mobilizing and marketing and (ii) processing of agricultural products into non-agricultural products) is considered as important or very important value added by a majority of respondents to the survey (60%, 16/27). Five respondents (19%) consider that this is not important value added.

JC.4 Extent to which agricultural SA rules avoid market distortions among MS.

The eight specific aid measures under review did not create important risks in terms of market distortions (see EQ2, EQ5, and EQ8). State aid always creates market distortions between the MS that provide support and other MS. But the aid measures under review have limited potential impact on market distortions for mainly two reasons:

- First, the amounts allocated for these measures only represent a small fraction of the value of the agricultural production concerned, generally less than 1%. Moreover, they remain very small when compared to the overall amounts allocated within the framework of the CAP (see Section 3.2.2.3).
- Second, the sheer nature of the measures limits the risks in terms of market distortions. The measures are linked to risk prevention or to compensation for damage due to unforeseen events or the coverage of insurance against such risks. The two measures that are more likely to generate distortions have only rarely been used. This concerns the support for investment respectively in the forestry sector and in the processing of agricultural products into non-agricultural products. Only in the case of subsidies for insurance was there a greater level of concern. Indeed, subsidized insurance has the potential to encourage farmers to increase production because it can reduce their incentive to incur the costs of on-farm measures to handle risks (e.g. crop diversification, investments to improve farm resilience). This greater risk of trade and market distortion effects due to subsidized insurance also came through in the MS survey, but was still only expressed by a small minority of respondents. Taking also into account the findings from previous academic research, we conclude that, relative to the benefits to producers of encouraging greater participation in insurance schemes that

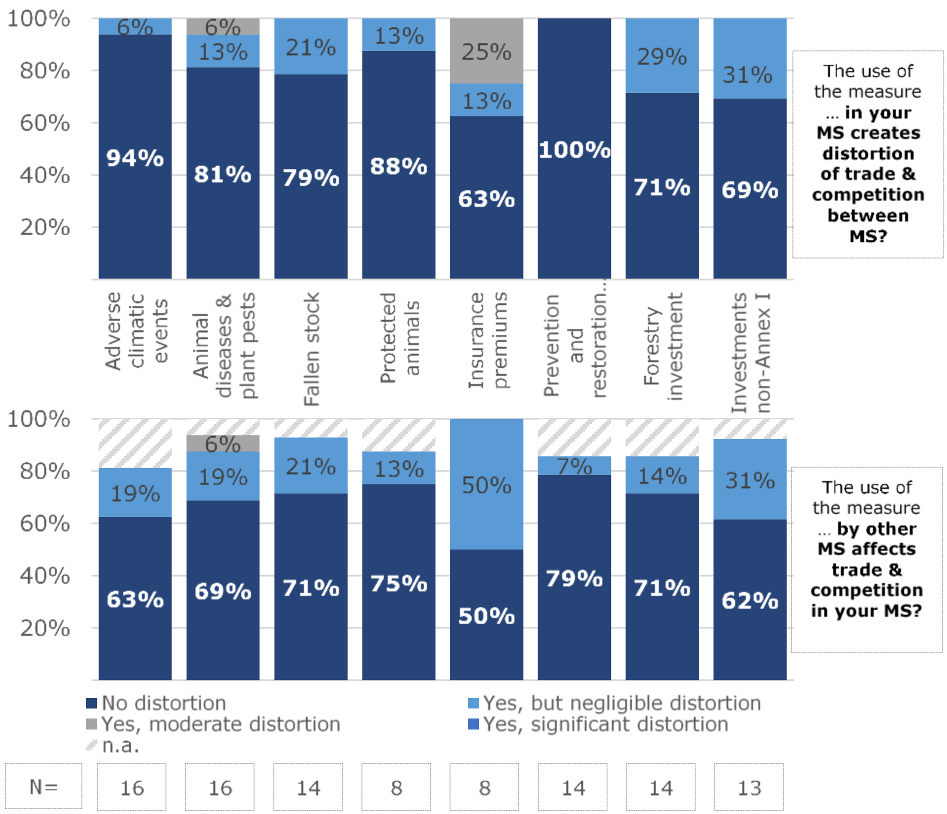
would not have existed in the absence of public support, any adverse impacts on trade and market competition were relatively minor.

The low risk of distortion is confirmed by the results of the survey:

- the majority of the respondents (between 63% and 100%, depending on the measure) stated that measures in their MS do not create a risk of distortion, others stating that there was a distortion, but only of moderate magnitude (between 6% and close to 30%, notably for forestry investment and non-Annex I activities);
- results are similar with respect to the use of the measures by other MS, although lower: between 50% and 79% responded that it did not create distortions, while between 7% and 50% stated that there were distortions but that they were negligible.

It is in both cases important to bear in mind that survey respondents are representatives of the public authorities (and not for instance beneficiaries or competitors).

Figure 32: Impact on trade and competition in a MS and between MS, as perceived by competent authorities



Source: ADE, survey conducted among EU-28 competent authorities

Nevertheless, MS recognize the need to have rules at EU level that allow a limiting of the risk of distortion. **Estonian** authorities for instance underlined during interviews the usefulness of the guidance provided with a view to ensuring equal conditions for all MS. In the absence of such guidance MS could take different approaches, which might end up with market distortion and inequality. EU State aid rules are moreover even more important for the smaller MS.

In **Spain** the authorities explained that the risk management policy has been implemented continuously and in a stable manner for 40 years. The Spanish agricultural insurance scheme would not fit within the RD framework (see the insurance chapter for more details). Such a scheme is however of paramount importance; in its absence damage caused by adverse weather events would induce more pressure for *ex post* support, thereby generating a much higher administrative burden for both the Spanish and the European administrations. If there was no legal basis to support the Spanish insurance scheme under the SA rules, there would be increased pressure for changes to the CAP, creating increased tensions in Europe on account of other MS that might not wish to finance these kinds of measures.

10. CONCLUSIONS

10.1 Theme 1: Aid mitigating risks inherent to the agricultural sector

Theme 1 groups five specific State aid measures covering agricultural risk management. For these measures State aid rules apply to aid financed exclusively from national resources ("pure State aid"). When they are co-financed in the framework of an EU programme, Articles 107-109 of the TFEU do not apply as they relate to Annex I products (Article 42 of the Treaty). Aid related to animal diseases and plant pests and support for insurance premiums can be financed from national resources or co-financed respectively through Regulation (EU) No 652/2014 or the RDR.

Relevance (EQ1)

The evaluation study confirmed the relevance of the aid in respect of the needs of the agricultural sector (JC.1). The measures are in response to a specific category of market failure (negative externalities in the absence of support) with regard to risks actually faced by farmers. Compensatory aid measures not only aim to have a direct effect on the economic situation of the undertakings affected by an adverse event, but also avoid a negative impact on related public policy objectives.

Specifically, State aid provided in relation to **adverse climatic events associated with natural disasters** which caused losses of more than 30% of average production is important for the viability of the affected agricultural holdings. The support is in response to major financial difficulties generated by such exceptional events. It is linked to the CAP objectives of promoting viable food production and balanced territorial development. The aim of the measure relating to **animal diseases and plant pests** is to prevent the spread of the disease or pest (negative externalities) and the decline of the affected sub-sectors, and to ensure good public and animal health. The purpose of the disposal of **fallen stock** is to avoid the potential negative effects on public health relating to the mismanagement of dead animals. The compensation provided for losses or **damage caused by protected animals** aims at supporting the co-existence of livestock farmers and protected animals and thus contributes to the wider CAP objectives of promoting biodiversity measures related to payment of **insurance premiums** with the objective of favouring the development of an insurance market that would not exist in the absence of public support.

The wide range of use in terms of the number of aid schemes and expenditure outlays shows that the scope of the aid is appropriate for meeting the needs, as is confirmed by the online survey and interviews with the competent authorities and beneficiaries.

In terms of expenditure, support for animal disease, adverse climatic events and insurance premiums were the most important. The latter notably covers such events. Indeed, the analysis also raised the issue of complementarity between support for insurance premiums and other compensatory risk management measures. MS developing an agricultural insurance market limit the need for compensatory measures for risks not covered by insurance.

Interviews with the competent authorities showed that the conditions and rules are adequate to meet the needs. This finding was confirmed by the online survey (JC.2). Nevertheless, MS identified some difficulties related to the conditions set out in the respective rules. For animal diseases, a constraint concerned the limitation of ABER to SMEs. In case of a disease outbreak, all enterprises – including large ones - are concerned in respect of both prevention and restoration measures which leave MS with large enterprises no choice other than to notify State aid. The closed list of eligible diseases does not allow MS to address emerging diseases. Another difficulty raised concerns compensation for losses prior to formal recognition of the outbreak. MS cannot use animal or plant products that must be destroyed but could still be consumed. For losses caused by protected animals, the major point concerns the interpretation of the concept "reasonable preventative measures" and eligible costs.

Coherence (EQ1)

The agricultural SA framework for insurance premiums differs from that of the RDR (JC.3). The RDR condition of a minimum of 30% losses and the formal recognition of an event prior to intervention is stricter than those for the agricultural SA instruments. The agricultural SA rules are better adapted to needs and are the reason for "pure State aid" in Spain. These differences guided the MS in taking their decision to provide support through the RDP or rather as pure State aid.

MS also confirmed the coherence between aid for animal diseases and fallen stock and public health policy at EU level (JC.4).

Effectiveness with regard to the effect on competition and trade (EQ2)

The analysis of aid schemes in the different MS confirms that the beneficiaries of State aid were almost exclusively agricultural holdings falling in the SME category (JC.1). This reflects the structure of the European agricultural sector. MS with large enterprises active in the sector notify aid schemes that include those large enterprises covered by aid. There is no targeting strategy but rather a need by MS to cover all undertakings active in the sector regardless of their size. However, in such notified aid schemes the evidence collected suggested that, in practice, only one payment to one large enterprise had been made. **For the agricultural risk management measures, State aid rules allowed granting of public support for which the positive effects on the beneficiaries, and on the concerned public policy in particular, exceed the limited effect on competition and trade (JC.2).** In the absence of aid granted to large enterprises, an **overall balance** of positive effects (achieved or expected) compared to the negative effects (observed or expected) on competition and on trade was assessed for each of the risk management measures **granted to SMEs.**

For the four compensatory aid measures, the counterfactual scenarios (comparing a situation with and without support) showed that **State aid improves the beneficiary's economic situation**, even if this aid does not completely compensate for the losses incurred due to the adverse event. The impact on the economic situation also depends on the share of CAP support (mainly direct payments) in the beneficiary's income which by itself has an income-stabilizing effect. Besides the direct economic effect, support **has an incentive effect** and **contributes to specific public policies**. It ensures the viability of undertakings in fragile farming systems as was the case with aid provided in the context of severe drought (France, Poland). Aid also contributes to an increased acceptance of biosecurity measures by the farmers in the event of epidemics. In the case of aid for fallen stock, aid guarantees safe disposal of carcasses. Aid related to damage caused by protected animals promotes co-existence of livestock farmers and protected animals. All these direct effects contribute to RD policies, human and animal health policies, and the EU biodiversity policy.

The negative effects on trade and competition for the compensatory measures were assessed qualitatively as very low. The support provided does not increase production. Furthermore, given that all undertakings affected by an adverse event have access to support, such aid does not distort competition within a MS. Potential distortion of competition between MS is limited: the amounts per undertaking are small and most MS offer similar support measures. The statement that State aid measures do not have significant market or trade impacts was supported by the survey results. Respondents indicated not only that their own support was not creating distortion but also reported that such aid from other MS was not creating distortions in their own MS.

For the payment of insurance premiums, the effect of State aid on the uptake of insurance is positive, but aid is not the only factor. Literature reviews of studies analysing the direct effects of insurance premiums in two MS (Spain and Poland) identified other factors playing a role in the uptake, such as the type of production and risks covered, the quality of insurance products offered, or the specific conditions for the intervention of an insurance scheme. Despite their limitations, both studies show a positive effect on the economic situation of the insured agricultural holdings as compared to the others. In the concerned MS, the potential negative effect on competition between insurance companies has been reduced by the opening up of State aid support to all insurance companies. Insurance support does not have negative effects on competition between farms within a MS given that all farms have access to premium support. Between MS, some negative effects cannot be excluded. However, such distortion remains limited insofar as State aid covers only part of the insurance premium costs (65% maximum). This has been confirmed by survey respondents.

Efficiency (EQ3)

The rules for aid for producers of primary agricultural products are globally efficient for obtaining SA clearance. Preparation time within the MS and the time required for obtaining SA clearance is assessed to be of acceptable level for block-exempted and notified aid schemes (JC.1). The average time between notification and clearance varies and is strongly influenced by the quality of the notification form and the need to obtain further clarification and information from the MS. The competent authorities underlined that efficiency gains are noted in respect of recurrent measures.

The statistics on the use of the instruments show the success of ABER for the risk management measures with on average seven block-exempted aid schemes for every one notified (JC.2). Notification is chosen to extend the scope of the aid scheme to large undertakings, to answer to the specificities of aid schemes (especially for animal diseases) and to increase the level of legal certainty as compared to ABER.

Based on the review of aid schemes in CS MS, *ex ante* schemes are clearly favoured by the competent authorities (JC.3). This type of public intervention is provided for in national legislation and the framework of State aid allows an *ex ante* scheme to be prepared that can be used when an adverse event occurs. Nevertheless, in some cases there is a need to answer specific needs and thus to introduce *ex post* schemes. This mainly relates to animal diseases and adverse climatic events. A review of titles of aid schemes covering these measures suggests that around 50 schemes (approximately 30%) are specific to a given event and could therefore be counted as *ex post* schemes.

10.2 Theme 2: Aid for investments in the forestry sector

Theme 2 covers two out of 12-20 forestry measures included in the agricultural SA instruments, namely (i) aid for the prevention and restoration of damage to forests and (ii) aid for investments in forestry technologies and in processing, mobilizing and marketing of forestry products (hereafter referred to as forestry investment measures). The latter are mainly included in RDP or are funded from national resources.

State aid rules apply to all measures, notably forestry, falling outside the scope of Art. 42 of the Treaty, and therefore needing SA clearance. Before 2014, (i) prevention and restoration of damage to forests was included in the agricultural GL only, while (ii) forestry investment was not at all covered by the agricultural SA instruments. The scope of the agricultural SA instruments for the current period 2014-2020 has been expanded, hereafter including these two forestry measures.

Relevance (EQ4)

There is an important need for SA clearance given that the two concerned forestry measures are implemented in a large majority of MS (24/28) mainly but not only through the RDPs. There is thus a strong need for clearance. The integration of the two forestry measures under review in ABER is a great success: the block-exemption is widely used, and it represents a real simplification (JC.1). State aid is mainly granted for the prevention of damage to forests, in particular from forest fires. Investment in forest technologies and processing and marketing is also largely provided for even if there was little such expenditure during the examination period. Differences were observed between expenditures declared by MS in SARI and RDP expenditures.

The rules in the agricultural GL and their application are more complex and time-consuming. This instrument is mainly used for RD-like measures in MS or regions that support forestry measures although not in their RDP (for several reasons such as budgetary constraints, administrative burdens in respect of forestry in RDP) (JC.2).

The beneficiaries are specific to the forestry sector. While beneficiaries are identical between ABER, the agricultural GL and the RDR, difficulties arise from the requirements relating to large enterprises[178] as applied to some entities that are not SMEs (such as rural municipalities and national parks). Entities covered "by default" must provide all supporting documentation and counterfactual analysis needed for large enterprises, which is a complex requirement (JC.3). MS still use the general *de minimis* in particular for overcoming these constraints of the agricultural GL.

Conditions, eligible costs and aid intensities are adequate (JC.3). Two MS (Estonia, Germany) asked for clarification on the concept of "destruction of a least 20% of the relevant forest potential affected" for restoration of forest from damage.

Effectiveness with regard to the effect on competition and trade (EQ5)

The EQ is answered separately for the two forestry measures, namely prevention of forest from damage and forestry investment.

Effects on competition and trade were not measured quantitatively, but based on the aid characteristics: aid is available to all holders and areas (medium-to-high forest fire risk); public support is compared to the value of wood harvested, to the turnover or forest output and the value added of the subsector. The volume of wood is considered, the absolute amount of support, and support by cubic metres of wood. For investment in processing the aid intensity is considered along with the amount of support in absolute terms and by cubic metre. Finally, the overall balance compares the positive effects of support with the negative effects and draws conclusions on the balance.

For prevention of forest from fires, the case of a productive forest was studied. Support through fire tracks, water storage and detection systems does not affect the volume of wood produced. Average public support for infrastructure and equipment was estimated for the reference period (2007-2013) in the Landes forest in Aquitaine (France) at €1/ha/year. This indicative public support represents 0.4% of the current value of harvested wood (after 40 years). The turnover of the subsector "forest – wood" was around €850 million, and value added €214 million, in 2012. Comparing public support with the turnover and the value added of the subsector for Landes, support represents respectively 0.07% and 0.26% of the total. In this context, negative effects on competitors and on trade within the internal market are limited (JC.2 forest fires). This prevention measure is very effective in limiting forest fires: although there are numerous fire outbreaks (between 2 000 and 4 000 per year during the period 2007-2016), over 80% affected less than 1 ha. This was achieved despite the fact that the period includes years with record summer temperature, increasing population in the departments concerned, and increases in the number of tourists during the summer. The measure has major positive effects on the security of the local population (including tourists), the local forestry-based economy and the environment (including CO_2 emissions). For such productive forest, the positive effects of the measure largely outweigh the limited negative effects (JC.2 prevention forest fires).

Prevention from plant pests rests on two aid schemes, a small and local case of prevention from bark beetle in Bavaria (Germany) and nationwide protection from root rot in Finland. Supported prevention measures from plant pests were either environmentally friendly yet more cumbersome (mechanical preventative measures instead of pesticides in Bavaria for bark beetle) or aimed to be systematic when felling (root rot in Finland). Support is available to all forest holders. The very small volumes of support per application (around €2 000) and of wood (80-160m³) in Bavaria do not affect trade on the internal market. Although of small amount, the support provides an incentive to implement extensive treatment.

In Finland, urea treatment to combat root rot when harvesting wood has been available to all forest holders for a standard charge (€75/ha). The support does not increase the volume of wood produced. It does however limit losses of wood due to root rot. At the level of "forest holdings", the cost of the treatment indicatively represents 0.45% of the gross income from felling. Although the cost of treatment appears small in relation to gross

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[178] Large enterprises are entities with more than 250 employees, €50 million turnover and/or an annual balance sheet of more than €43 million. All entities that are not an SME[178] are also considered "by default" as large enterprise.

income, nonetheless even with the subsidy not all foresters were treating the stumps left after thinning or felling; the incentive effect was too limited. This notably explains why the treatment was made mandatory from mid-2016 onwards. Finnish forest output was estimated at €1.7-1.8 billion in 2015 and 2016 respectively. Support for treatment of root rot represented less than 1% of forest output (0.27%). With this small share and the limited incentive effect it is unlikely to cause undue distortion or to affect trade. The effects of limiting the spread of a major disease are important, including for neighbouring MS. The positive effect on the prevention of consequences of epidemic diseases affecting EU forestry outweigh the limited effects on competition and on trade.

For investment in forest technologies and in processing and marketing, there were very few expenses and projects during the examination period. The case studies concerned support for environmentally-friendly forwarding machines. Despite the very limited support (see below), possible distorting effects need to be considered as support in neighbouring regions is different (not for the SME but for the forest holder) and competitors do not necessarily have access to this type of support. The effect on competitors and on trade is rather limited for the following reasons: (i) the support is small with an aid intensity of 20%, small amounts in absolute terms (€2 500 - €11 500) and by cubic metre (€0.2-0.3/m^3) - a unique investment per beneficiary; (ii) the volume relates to small amounts of wood in difficult areas (mountainous areas, areas with steep slopes, wet areas); the beneficiaries are mainly micro and small enterprises. The competent authority of the neighbouring region did not consider it as a distortion of competition. This opinion is also shared by the respondents to the survey (EU-28). For this type of support the environmental results in terms of preservation of soil exceed the limited effect on competition and on competitors (JC.2 investment support).

The rules for the aid to the forestry sector are effective as regards the effect on competition and trade. The limited negative effects are outweighed by the positive effects of the aid, especially taking into account the objective of the measure such as (i) effective limitation of forest fires, (ii) the security of the local population (from forest fires), (iii) the preservation of forestry production potential (by avoiding fires and major pests (root rot and bark beetle)), and (iv) the environment (avoidance of destruction of forests and CO_2 emissions from forest fires, the fight against plant pests without pesticides), and environmentally-friendly harvesting practices with reduced impact on soils.

Coherence (EQ6)

The rules for the aid for prevention and restoration of damage to forests are coherent with those for the underlying co-financed RD measures or national top-ups (JC.1). The single measure "prevention and restoration of damages to forests" in the agricultural SA instruments corresponds to two different RD measures, one for prevention (RD measure 8.3) and one for restoration (RD measure 8.4); this latter approach is more transparent with regard to *ex ante* and *ex post* interventions.

However, slight differences exist in the rules for investments in forest technologies and processing and marketing (JC.1). Costs regarding working capital (if related to new investment supported by EAFRD) are eligible expenditures according to RDR while such costs are not eligible under SA instruments. The aid intensity for less developed regions is 65% according to the RDR while ABER and agricultural GL apply a rate of 50%. The RDR rate cannot be applied. Albeit raised by one CS MS, these differences are not considered by MS as obstacles to clearance (JC.2). According to the interviewed RDP managing authorities, beneficiaries are not aware of these differences in aid intensities (JC.3).

10.3 Theme 3: Aids for investments in non-Annex I activities in rural areas

Aids for investments in non-Annex I activities in rural areas are covered by two different RD measures: (i) RD measure 4.2 supporting SMEs in their investments in processing and marketing of agricultural products; the integration of non-Annex I activities into this investment support is new and was introduced for the first time in the RDR; and (ii) RD measure 6.4 relating to investment in the development of non-agricultural activities leading particularly to non-Annex I products from agricultural products, supporting only micro and small enterprises. These support measures may only be financed within a RDP. State aid rules fully apply as they are non-Annex I products and are thus not covered by Art. 42 of the TFEU.

Relevance (EQ7)

Agricultural SA instruments are relevant for obtaining SA clearance for investment in processing agricultural products into non-Annex I products under RD measure 4.2. With 66% of the reviewed RDPs (55 out of 83 in the 8 CS MS) covering RD measure 4.2, the need for authorising this investment support is significant. MS use ABER, but also the horizontal SA instruments (JC.1) (in particular GBER which was the only option for exemption before 2014). Those that used ABER consider it an important simplification. The scope and eligible costs are overall adequate, although an extension to intangible investment in product development was suggested (Finland, Italy). The aid intensity is considered low compared to Annex I products.

The share of non-Annex I products within RD measure 4.2 is relatively low (<20%), sometimes difficult to identify and manage (8 CS MS). During the examination period there was little expenditure relating to RD measure 4.2 for non-Annex I: €2.6 million in the 8 CS MS, and indicatively a maximum of €8.3 million in the EU-28[179]. It is not possible to identify the budget specifically devoted to non-Annex I products within RD measure 4.2 which includes both Annex I and non-Annex I products. In addition, differences were observed between data in SARI and RDP expenditures.

Agricultural SA instruments do not respond to the need to obtain SA clearance for non-agricultural activities including investment in processing agricultural products into non-Annex I under RD measure 6.4. This measure covers non-Annex I products among other activities such as tourism, energy, health and culture. SA clearance is needed for support for all types of investments. However, these investments cannot be block-exempted by the agricultural SA instruments but must be notified. No aid schemes were identified based on the agricultural GL during the examination period. The administrative burden related to the agricultural GL is too important in relation to the type of beneficiary (exclusively micro and small enterprises) and the amount of aid. Instead, the horizontal instruments are being used (the general *de minimis* and GBER).

Effectiveness with regard to the effect on competition and trade (EQ8)

The answer to the EQ is based on aid schemes with expenditures and funded projects for non-Annex I products, registered in only 4 MS. The evaluation of effects on trade is limited by the lack of statistics on trade for these specific niche products.

A variety of final products were concerned by the investments (notably bread and bakery products including gluten-free products, craft beers, distilled products (coriander oil), fruit drinks, ice cream, meat products, potato snacks and others). Many projects are innovative (at least for the region concerned), and often concern niche markets (JC.1).

Negative effects on trade were difficult to assess with the relevant data. As many projects concern niche markets and very specific products, no statistics were publicly available on trade in the EU. The support is unlikely to cause undue negative effects on the internal market (JC.2), considering the aid intensities of 10-20% (with the exception of regions with constraints where higher aid intensities may apply (e.g. sparsely populated, less developed or transition regions)) and the limited number of projects and levels of support (around €200 000, corresponding to the level of the general *de minimis*).

For larger projects with higher aid intensities (>20%) available for SMEs only, a negative effect on competitors cannot be excluded. Nevertheless for most of the time competitors could also apply for aid (confirmed by contacted competitors in Finland and Germany). Interviewed competitors underlined the importance of equal access to aid under similar aid conditions by all enterprises to avoid distortion of competition.

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[179] This includes €5 million for Austria where it was not possible to differentiate between Annex I and non-Annex I.

The investment projects are funded in the framework of RDPs. They mainly contribute to promoting food chain organisation with processing and marketing of agricultural products (RD priority 3A). A specific aspect concerns better integration of farmers in the agri-food chain. This has been explicitly shown by the support from the Finnish and German RDP which focuses on local products, notably including contracts with farmers and their associations over several years for nearly half of the supply. Projects also contribute to promotion of resource efficiency (RD priority 5). Examples were found in Finnish and Spanish projects. Spanish projects also aim at generating value added in the region with supported projects.

The rules for aid in the agricultural SA instruments, in terms of the beneficiaries and aid intensities, are effective in ensuring limited effects on competition and trade. Indeed, with a low aid intensity and explicit RD objectives, notably translated into the eligibility criteria for support, these rules ensure that negative effects on competition and trade are outweighed by the positive effect of the aid.

Coherence (EQ9)

State aid rules are coherent with the underlying RD measures in terms of beneficiaries and eligible costs, but differences exist at the level of the scope (ABER) and of aid intensities (JC.1). As detailed in EQ7, ABER does not cover the underlying RD measure 6.4 supporting non-agricultural activities. Moreover differences exist in terms of aid intensities. Aid intensities depend on the final product (Annex I or non-Annex I) and differ according to the type of region (less developed, outermost, "other"). For non-Annex I products, ABER and agricultural GL provide aid intensities which are aligned on the Regional Aid Guidelines and not on the RDR, implying that the more favourable RDR aid intensity cannot be applied in certain regions.

The coexistence of Annex I and non-Annex I products (the latter requiring SA clearance) in a similar investment support can be complicated. MS handle this in various ways. Some MS limit RDP support to Annex I only, others split applications (one for Annex I and one for non-Annex I products). Little information is available on the potential influence of differences in aid conditions on investment decisions by beneficiaries. The latter consider aid intensities of 10% low compared to the burden relating to an application for support (Germany and Italy).

The use of the different SA instruments (horizontal and agricultural) has been influenced by efficiency concerns (see EQ7) but also by the different conditions observed between the SA instruments and the underlying RD measures (JC.2).

Little information is available on the potential influence of differences in aid conditions on investment decisions by beneficiaries, however aid intensities of 10% are considered low by beneficiaries (JC.3).

10.4 Theme 4: Efficiency

The revision of the agricultural SA instruments achieved its objective of simplification and reduced administrative burden. This is particularly the case for ABER, which is by definition a simpler procedure for State aid as compared to having to notify aid to the Commission. The extended scope of measures included in ABER in the 2014-2020 framework simplified the procedure for MS and allowed quick implementation (JC.1). This is particularly true for the forestry measures. The use of ABER increased extensively and important efficiency gains in managing those measures were obtained. Overall, simplification is declared by the competent authorities in terms of the time needed for preparing and introducing State aid, the administrative efforts needed, and an understanding of the framework.

The clearance of RD measure 4.2 regarding processing of agricultural products into non-Annex I via ABER is more modest (one-third of MS for 55 RDPs in the 8 CS MS). However, it is the first time ever that non-Annex I products are included in the RDR for SME under this measure. While the simplicity of the procedure was confirmed by MS who used it, other MS used the horizontal SA instruments (GBER and general *de minimis*).

The revised agricultural GL are not seen as a simplification compared to the situation in the reference period as far as the forestry measures and non-Annex I measures in non-agricultural activities are concerned (JC.2). A notification remains complicated and burdensome in particular for the variety of small rural entities, in particular in the forestry sectors. The agricultural GL were not at all used for non-Annex I measures defined by RD Measure 6.4.

The agricultural GL introduced the possibility of clearing aid for compensation for damage by protected animals. While it is positive to have this measure in the agricultural GL, it remains cumbersome for small levels of support.

10.5 Theme 5: EU added value

State aid rules have contributed to a legal framework for MS to offer State aid in a common and transparent way. Mostly they provide coherence between EU co-financed measures and pure State aid. They facilitate similar public interventions in response to need in terms of risks in the agricultural and forestry sectors, encouraging policy and strategic thinking across the MS (e.g. including support for compensation for damage by protected animals in a policy framework). The Commission provided valuable support by: (i) fostering the predictability of the State aid evaluation process; (ii) offering guarantees for legal certainty; and (iii) increasing transparency. Although measures under review were identified as having little potential for distorting markets, the rules for State aid were nonetheless considered important in ensuring avoidance of market distortions.

11. RECOMMENDATIONS

R1: Extend the scope of ABER for animal diseases (and plant pests) to all enterprises, whatever their size, in order to simplify the clearance process and allow State aid interventions covering all undertakings affected (CCL EQ1 and CCL EQ2). Aid to prevent and address the consequences of animal disease and plant pests aims at eradicating or preventing the spread of a disease affecting animal and public health and providing economic losses for the sector concerned. In case of a crisis, it is crucial to act quickly and to have the collaboration of undertakings in implementing the biosecurity measures for all enterprises, whatever their size.

Even if there are few large enterprises active in EU primary agricultural production, the risk of diseases is real. The consequences are significant, even more for large enterprises (in terms of negative externalities). To counter this risk, the competent authorities notify aid schemes in order to be able also to provide support to large enterprises. This is for example the case in the Czech Republic and Germany.

The intervention case studies showed in particular the importance of supporting a policy that prevents diseases and tries to eradicate them by covering epidemics of infectious livestock and plant disease, regardless of the size of enterprise.

In terms of the effect on trade, the measure does not increase the volume of production, but tries to restore the damaged production potential. In terms of competition within a MS, given that all undertakings affected by an event are eligible for support, such aid does not generate distortion of competition. The competition between MS is limited, as all MS have common health policy objectives aiming at the prevention and eradication of diseases.

Extending the scope of ABER for this measure to beneficiaries which are not SMEs would contribute to simplification and increase the effectiveness of the aid measure (in preventing, controlling and eradicating animal diseases).

R2: Adapt some conditions under eligible costs for the measure related to animal diseases and plant pests (CCL EQ1). In order to adapt the support better to real needs, it is recommended that the following conditions for animal diseases and plant pests be reviewed:

- **Extension of the list of eligible diseases by including emerging diseases or suspicions of emerging diseases.** The scope of the agricultural State aid related to animal diseases is limited to the diseases referred to in the list of eligible 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. This closed list does not cover emerging diseases. However, the risk of being confronted with new diseases is real and it is necessary to be able to cope with them. It is therefore proposed to expand the list to include emerging diseases.
- **Revision of the conditions of support.** Envisage the possibility of encouraging the use of animal or plant products that must be destroyed on the basis of preventative measures but which can still be consumed (even for food banks or charity), thereby limiting food waste.

R3: Include compensation for damage caused by protected animals in ABER while specifying the request for reasonable preventative measures and avoid over-investment (CCL EQ1). The compensation for damage caused by protected animals is justified in order to encourage the acceptance of protected animals by farmers and participate in EU policy on biodiversity. This measure has only a limited impact on competition and trade. Including this aid measure in ABER would contribute to further simplification of the clearance process.

In addition, the following conditions should be revised:

- While it is legitimate to prevent abuse, prevention should be proportionate to the risk and overinvestment should be avoided. Hence, the concept of "reasonable preventative measures" should be specified.
- The valuation of losses should leave some margin for including not only the market value of animals but also the losses of income incurred.

R4: Conduct specific analytical work to improve knowledge of the impact of State aid for insurance premiums (CCL EQ2). Few studies exist on the incentive effect of support for insurance premiums on farmers (in terms of uptake). No studies were found on the effects of publicly-supported insurance premiums in terms of distortion of competition. Further, the lack of knowledge of the agricultural insurance sector in the EU was also noted in the 'study on agricultural risk management' (DG AGRI 2017). The study in particular made recommendations to improve access to reliable information on risk management in agriculture and the need to improve knowledge based on robust results in risk management.

In this context, the analysis of the effects on trade and competition conducted for this evaluation study was based on a qualitative assessment and from the point of view of the managing authorities. This evaluation identified the methodological constraints for conducting this type of analysis that requires resources and time for conducting specific analytical work. It is thus recommended to launch specific studies aiming at analysing the effects of support for insurance premiums on trade and competition.

R5: Continue knowledge-sharing between Commission Services and MS (CCL EQ3). The improvements made by the revision of the agricultural SA framework were appreciated by the MS (in terms of the definitions, guidance and forms). This dynamic should be pursued by promoting further exchanges within the MS and with the Commission Services. The aim is to continue to improve the understanding of the constraints at MS and EC State aid levels. This could mean, for example:

- Communication not only based on rules but also explaining the reasons for rules.
- Organisation of workshops (in small groups) to promote open discussion of difficulties and constraints for clearance and possible improvements.
- Knowledge-sharing through access to the database of DG COMP on schemes exempted under ABER, going beyond the public information summary sheet, that do not describe schemes. The availability of information on the schemes implemented by a MS to address a specific need can guide other MS on setting up State aid covering the same type of need. This knowledge-sharing would improve the competences of the MS.
- Conduct some State aid evaluation and share the results. Assessment of State aid remains weak at MS level. This evaluation did not identify any assessment conducted. The intervention case studies conducted showed the difficulties of carrying out the *ex post* assessement (no baseline, difficulties in identifying a counterfactual situation, no beneficiary monitoring system).

R6: Extend the scope of ABER with "strict" RD-like forestry measures (CCL EQ4). There is a strong need for clearance given the importance of forestry measures, especially but not only in the RDPs. The inclusion of the two forestry measures in ABER provides a real simplification. However, the agricultural GL have made the notification procedure for forestry measures very complex. In order to increase simplification, it is recommended to extend the scope of ABER to "strict" RD-like forestry measures, as the only difference with the measures currently covered by the exemption procedure would be the financing source.

R7: Align RDR aid intensities for the investment measures (forestry investment and investment in non-Annex I products) with the corresponding agricultural State aid rules (CCL EQ6 and EQ9). While aid intensities are aligned between the different SA instruments (horizontal *versus* agricultural), the non-alignment with the RDR is not coherent. Therefore, alignment of RDR aid intensities with agricultural State aid rules (indirectly with RAG) is recommended.

R8: Improve and consolidate monitoring of State aid expenditures in line with RDP expenditures (CCL EQ4 and EQ7). In terms of monitoring, no linkage exists between SARI and the expenditures monitored by the RDP (annual reporting). The evaluation has identified discrepancies between figures

provided from both reporting systems, in particular in decentralized MS. An integrated and coherent vision of RDP expenditures approved by the EC and State aid expenditures registered in SARI should be easily accessible with a view to serving monitoring purposes. Therefore, as soon as RDP expenditures are approved by the EC (AIR), verification should take place that these expenditures are also recorded by the competent authorities in the SARI system. This implies increased dialogue between the competent authorities in MS and between the competent Commission Services.

R9: Enhance reporting of State aid use (CCL EQ1). Specific reporting provisions are foreseen by ABER and the agricultural GL. Annual reports should be submitted to the Commission, which particularly include measures related to adverse climatic events, animal diseases and plant pests, meteorological information and the animal diseases or plant pests concerned by the aid provided within the aid scheme. The evaluation has not found such information in the reporting system. With a view to enhanced monitoring and evaluation, it is recommended that such annual reports are submitted with the foreseen information, even if a final evaluation report is prepared at the conclusion of the aid scheme.

LIST OF ANNEXES

The annexes to this report (see list below) are presented in a separate volume.