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Guidelines for State aid in the agricultural and forestry sectors and in rural areas

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PART I. COMMON PROVISIONS

Chapter 1. Introduction

(1) Article 107(1) of the Treaty on the Functioning of the European Union ('the Treaty') states that, '(s)ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.' Although the Treaty lays down the principle that State aid is prohibited, in certain cases, such aid may be compatible with the internal market on the basis of Article 107(2) and (3) of the Treaty.

(2) In accordance with Article 107(2), point (b), of the Treaty, State aid to make good the damage caused by natural disasters or exceptional occurrences within the agricultural and forestry sectors is compatible with the internal market.

(3) In accordance with Article 107(3), point (c), of the Treaty, the Commission may consider State aid to promote the economic development of the agricultural and forestry sectors and of rural areas compatible with the internal market, provided that it does not adversely affect trading conditions to an extent contrary to the common interest.

(4) In accordance with Article 42 of the Treaty, the rules on competition apply to production of and trade in agricultural products only to the extent determined by the European Parliament and the Council.

(5) In these Guidelines, the Commission establishes the criteria for identifying the areas that fulfil the conditions of Article 107(3) of the Treaty and can be considered compatible with the internal market. As regards aid granted pursuant to Article 107(2), point (b), these Guidelines set out the conditions under which a measure constituting aid to make good the damage caused by natural disasters or exceptional occurrences is compatible with the internal market.

(6) State aid to promote the economic development of the agricultural and forestry sectors and of rural areas is embedded in the broader common agricultural policy ('the CAP'). Within the CAP, the Union provides financial support to the agricultural and forestry sectors and to rural areas. As the economic effects of State aid do not change depending on whether it is (even partly) financed by the Union, or whether it is financed by a Member State alone, the Commission considers that there should in principle be consistency and coherence between its policy in respect of the control of State aid and the support which is granted under the Union's own common agricultural policy. Therefore, when the Commission applies and interprets the rules of these Guidelines for specific aid schemes, it takes into consideration the CAP rules.

(7) The following Union acts are of particular relevance for State aid considerations related to the CAP:

(a) Regulation (EU) 1144/2014 of the European Parliament and of the Council[1];
(b) Regulations (EU) 228/2013[2] and (EU) 229/2013[3] of the European Parliament and of the Council;
(c) Regulation (EU) 2021/2115 of the European Parliament and of the Council[4];
(d) Regulation (EU) 2021/2116 of the European Parliament and of the Council[5];
(e) Regulation (EU) 1308/2013 of the European Parliament and of the Council[6].

(8) The CAP is based on two pillars (the European Agricultural Guarantee Fund ('EAGF') and the European Agricultural Fund for Rural Development ('EAFRD')), which, combined, provide a fundamental layer of support to farmers in the Union, creating the basis for keeping sustainable farming in place throughout the Union.

(9) In accordance with Article 39(1) of the Treaty, the objectives of the CAP are to increase agricultural productivity, to ensure a fair standard of living for the agricultural community, to stabilise markets, to assure the availability of supplies reaching the consumer at reasonable prices. In accordance with Article 39(2) of the Treaty, in working out the CAP and the special methods for its application, account must be taken of:
(a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;
(b) the need to effect the appropriate adjustments by degrees;
(c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.

(10) With the aim of further improving the sustainable development of farming, food and rural areas, the post 2020 CAP objectives focus on fostering a smart, competitive, resilient and diversified agricultural sector ensuring long-term food security, on supporting and strengthening environmental protection and climate action, on contributing to achieving the environmental and climate-related objectives of the Union and on strengthening the socio-economic fabric of rural areas. Those general objectives are complemented by the cross-cutting objective of modernising the sector

[1] Regulation (EU) 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008 (OJ L 317, 4.11.2014, p. 56).
[2] Regulation (EU) 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).
[3] Regulation (EU) 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).
[4] Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council (OJ L 435, 6.12.2021, p. 1).
[5] Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) 1306/2013 (OJ L 435, 6.12.2021, p. 187).
[6] Regulation (EU) 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) 922/72, (EEC) 234/79, (EC) 1037/2001 and (EC) 1234/2007 (OJ L 347, 20.12.2013, p. 671).

by the fostering and sharing of knowledge, innovation and digitalisation in agriculture, forestry and rural areas, and encouraging their uptake. The achievement of the general CAP objectives is pursued through the following specific objectives:

(a) supporting viable farm income and resilience of the agricultural sector across the Union to enhance long-term food security and agricultural diversity as well as ensuring the economic sustainability of agricultural production in the Union;

(b) enhancing market orientation and increase farm competitiveness both in the short and long term, including greater focus on research, technology and digitalisation;

(c) improving the farmers' position in the value chain;

(d) contributing to climate change mitigation and adaptation, including by reducing greenhouse gas emissions and enhancing carbon sequestration, as well as promote sustainable energy;

(e) fostering sustainable development and efficient management of natural resources such as water, soil and air, including by reducing chemical dependency;

(f) contributing to halting and reversing biodiversity loss, enhance ecosystem services and preserve habitats and landscapes;

(g) attracting and sustaining young farmers and other new farmers and facilitate sustainable business development in rural areas;

(h) promoting employment, growth, gender equality, including the participation of women in farming, social inclusion and local development in rural areas, including circular bio economy and sustainable forestry;

(i) improving the response of Union agriculture to societal demands on food and health, including high quality, safe, and nutritious food produced in a sustainable way, the reduction of food waste, as well as improving animal welfare and combatting antimicrobial resistances.

Chapter 2. Scope and definitions

2.1. Effect of the CAP on the scope of application

(11) In accordance with Article 42 of the Treaty, in so far as agricultural products listed in Annex I to the Treaty are concerned, the rules on State aid laid down in Articles 107, 108 and 109 of the Treaty apply only to the extent determined by the European Parliament and the Council.

(12) Pursuant to Article 145(1) of Regulation (EU) 2021/2115 and Article 211(1) of Regulation (EU) No 1308/2013, the rules on State aid are applicable to the production of and trade in agricultural products. However, there are various derogations from this general principle which are laid down, amongst others, in Article 23 of Regulation (EU) No 228/2013, Article 17 of Regulation (EU) No 229/2013, Article 145(2) of Regulation (EU) 2021/2115, Article 211(2) of Regulation (EU) No 1308/2013 and Article 27 of Regulation (EU) No 1144/2014.

(13) As regards support granted under Regulation (EU) 2021/2115, Article 145(2) of that Regulation stipulates that the State aid rules do not apply to support provided by Member States pursuant to, and in conformity with that Regulation or to additional national financing within the scope of Article 42 of the Treaty.

(14) Therefore, State aid rules do not apply to the co-financing of rural development support (both the EAFRD part and the national part) or to additional national

financing on top of such support, provided that the intervention in question is related to an agricultural activity falling within the scope of Article 42 of the Treaty and forms a part of a CAP Strategic Plan.

(15) However, State aid rules apply fully to all co-financed interventions (both the EAFRD part and the national part) and to the additional national financing for such interventions, which fall outside the scope of Article 42 of the Treaty, but fall within the scope of Regulation (EU) 2021/2115, i.e. in the following cases: (a) interventions supporting activities in the rural areas and (b) interventions in the forestry sector.

(16) State aid rules apply if a Member State intends to finance a measure, which is designed largely in accordance with the conditions of a given rural development intervention (‘rural development like measure’) exclusively from national funds (that is to say, without any EAFRD co-financing), regardless of whether the measure falls within or outside the scope of Article 42 of the Treaty.

2.2. Scope of application

(17) The Commission will apply these Guidelines to aid schemes and individual aid.

(18) These Guidelines apply to State aid for the primary agricultural production, the processing of agricultural products resulting in another agricultural product and the marketing of agricultural products.

(19) Based on the general considerations set out in Section 2.1 of this Part, in order to ensure coherence with the rural development policy and to support the compliance with State aid rules, it is appropriate to also include certain rural development interventions falling outside the scope of Article 42 of the Treaty, whether co-financed by the EAFRD or additional national financing, as well as rural development like measures financed exclusively from national funds. Therefore, in addition to the agricultural sector, these Guidelines set out the compatibility criteria for State aid to the forestry sector and aid to undertakings active in rural areas which fall outside the scope of Article 42 of the Treaty.

(20) When analysing State aid and its compatibility with the general principles on State aid, the Commission will take into account, to the extent possible, the conditions laid down in Regulation (EU) 2021/2115 and its delegated and implementing acts.

(21) The following categories of aid fall within the scope of these Guidelines:

(a) measures in the agricultural sector, financed exclusively from national funds, which consist of:

(i) rural development like measures falling outside the framework of the CAP Strategic Plans (Part II, Section 1.1);

(ii) measures other than those referred to in (i) which fall outside the scope of Regulation (EU) 2021/2115, such as certain risk and crisis management measures, aid for the livestock sector and certain promotion measures (Part II, Sections 1.2 and 1.3);

(b) aid for the forestry sector (Part II, Chapter 2), which can be:

(i) granted as part of a CAP Strategic Plan or as additional national financing for such rural development intervention; or

(ii) financed exclusively from national resources;

(c) aid for undertakings active in rural areas which can be granted as:

(i) an intervention included in a CAP Strategic Plan, co-financed by the EAFRD pursuant to, and in conformity with Regulation (EU)

2021/2115, where the notifiable State aid measure is identical with the intervention in a CAP Strategic Plan (Part II, Chapter 3); or

(ii) additional national financing related to an intervention in the framework of a CAP Strategic Plan (Part II, Chapter 3).

(22) These Guidelines apply to aid to SMEs and in principle also to large enterprises. However, large enterprises tend to be less affected by market failures than SMEs. Moreover, large enterprises in the agricultural and forestry sectors and in rural areas are more likely to be significant players on the market and, consequently, in specific cases, aid granted to large enterprises may particularly distort competition and trade in the internal market. As aid to large enterprises in the agricultural and forestry sectors and in rural areas and to other large enterprises can potentially cause similar distortions of competition, State aid rules for large enterprises in these Guidelines are harmonised with the general State aid rules, and are subject to the compatibility assessment pursuant to Article 107(3), point (c), of the Treaty as laid down in Chapter 3 of this Part. As regards aid measures for the livestock sector~~,~~ which do not fall within the scope of Regulation (EU) 2021/2115, the Commission maintains its previous policy that large enterprises should be able to finance the costs of these measures themselves. Therefore, aid in the livestock sector remains limited to SMEs.

(23) Undertakings in difficulty are excluded from the scope of these Guidelines, subject to the exceptions set out in this point. The Commission considers that when an undertaking is in financial difficulty, given that its very existence is in danger, it cannot be considered an appropriate vehicle for promoting other public policy objectives until such time as its viability is assured. Therefore, where the beneficiary of the aid is in financial difficulty within the meaning of point (32)66, the aid will be assessed in accordance with the Guidelines on State aid for rescuing and restructuring firms in difficulty[7]. However, the principle of not providing State aid to undertakings in financial difficulties does not apply to compensatory aid for damage caused by natural disasters and exceptional occurrences referred to in Part II, Sections 1.2.1.1 and 2.1.3, provided the aid is compatible with the internal market under Article 107(2), point (b) of the Treaty. If the financial difficulty of an undertaking active in the agricultural and forestry sectors has been caused by the risk event referred to in Part II, Sections 1.2.1.2, 1.2.1.3, 1.2.1.5, 2.1.3, 2.8.1 or 2.8.5, aid to compensate for the losses or damage caused by such risk events and to cover the costs of eradication of plant pests can be granted in accordance with these Guidelines and may be compatible with the internal market under Article 107(3), point (c) of the Treaty. In addition, for reasons of protection of public health and the emergency situation, the economic situation of an undertaking should not be taken into consideration regarding aid for the destruction and removal of fallen stock, as set out in Part II, Section 1.2.1.4, and for aid for prevention, control and eradication measures in the case of animal diseases referred to in points (370) and (371) in Part II, Section 1.2.1.3. Furthermore, this principle does not apply to information actions referred to in Part II, Sections 1.1.10.1 and 2.4 and for promotion measures which are generic in character, set out in Part II, Section 1.3.2.

(24) Aid in favour of agricultural products within the meaning of Annex 1 to the WTO Agreement on Agriculture, which constitutes an export subsidy as defined by that

[7] Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty. (OJ C 249, 31.7.2014, p. 1).

Agreement is excluded from the scope of these Guidelines. Likewise, aid in favour of such products, which constitutes export financing support provided by a government or any public body within the scope of the WTO Ministerial Decision on Export Competition of 19 December 2015[8] is excluded from the scope of these Guidelines, if it does not comply with the relevant requirements of paragraph 15 of that Decision on maximum repayment term and self-financing.

(25) When assessing aid granted to an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, the Commission will take account of the amount of aid still to be recovered[9]. This does not apply to aid to make good the damage caused by natural disasters and exceptional occurrences under Article 107(2), point (b), of the Treaty and to aid for the costs of prevention, control and eradication of animal diseases referred to in points (370) and (371) in Part II, Section 1.2.1.3.

(26) Member States are reminded that the system of financing, for example, by parafiscal levies, should be notified, when the system forms an integral part of the aid measure[10].

(27) The Commission will assess any aid measures not covered by these Guidelines or by any other relevant State aid rules on a case-by-case basis directly on the basis of Article 107(2), point (b), and Article 107(3) of the Treaty, taking into account the rules laid down in Articles 107, 108 and 109 of the Treaty, the CAP and by analogy these Guidelines, where possible. Member States notifying State aid not covered bythese Guidelines will have to demonstrate that the State aid in question is compatible with Article 107(3), point (c), of the Treaty as laid down in Chapter 3 of this Part of these Guidelines. The Commission will only approve such measures if the positive contribution to the development of the sector clearly outweighs the risks of distorting competition in the internal market and the effect on trade between Member States.

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

(28) In principle, to streamline State aid rules and due to the similarities between undertakings active in the agricultural and forestry sectors and in rural areas and other undertakings, the general State aid instruments laying down the criteria for compatibility of aid are applicable to the sectors covered by these Guidelines. This concerns in particular the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty[11], the Framework for State aid for research and development and innovation[12], the Guidelines on State aid for climate, environmental

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8 WT/MIN(15)/45 — WT/L/980.

9 See judgment of 13 September 1995, *TWD* v *Commission*, joined cases T-244/93 and T-486/93, EU:T:1995:160, paragraph 56.

10 See judgment of 13 January 2005, *Streekgewest*, C-174/02, EU:C:2005:10, paragraph 26; judgment of 17 July 2008, *Essent Netwerk Noord and others*, C-206/06, EU:C:2008:413, paragraph 90; judgment of 16 October 2013, *TF1* v *Commission*, T-275/11, EU:T:2013:535, paragraphs 41 - 44; and judgment of 11 July 2014, *DTS Distribuidora de Televisión Digital* v *Commission*, T-533/10, EU:T:2014:629, paragraphs 50-52.

11 OJ C 249, 31.7.2014, p. 1.

12 OJ C 198, 27.06.2014, p. 1.

protection and energy 2022[13], the Communication from the Commission — EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks[14], the Guidelines on State aid to promote risk finance investments[15], the Communication from the Commission - Criteria for the analysis of the compatibility of State aid for training subject to individual notification[16], the Communication from the Commission - Criteria for the analysis of the compatibility of State aid for the employment of disadvantaged and disabled workers subject to individual notification[17] and the instruments relating to services of general economic interest[18].

(29) The horizontal instruments referred to in point (28) apply to the production, processing and marketing of agricultural products unless these Guidelines provide specific rules. These Guidelines provide for specific environmental aid measures, such as aid for agri-environment-climate and animal welfare commitments (Part II, Sections 1.1.4 and 1.1.5), aid for area-specific disadvantages resulting from certain mandatory requirements (Part II, Section 1.1.6) and aid for organic farming (Part II, Section 1.1.8). Aid for investments to pursue environmental objectives in the field of primary agricultural production is evaluated in accordance with the rules set out in Part II, Section 1.1.1.1. Aid for environmental protection in favour of undertakings active in the processing of agricultural products and the marketing of agricultural products can be considered compatible with the internal market under Article 107(3), point (c), of the Treaty if it fulfils the conditions of the Guidelines on State aid for climate, environmental protection and energy 2022. Aid for investments in energy saving, biofuel and energy from renewable sources are excluded from the scope of Part II, Chapters 2 and 3, as such aid should comply with the Guidelines on State aid for climate, environmental protection and energy 2022, unless it is exempted from the notification obligation. However, aid for investments linked to primary agricultural production related to the production of energy from renewable sources or to the production of biofuels on holdings can fall within the scope of the present Guidelines, provided that such production does not exceed the average annual consumption of fuels or energy of the agricultural holding in question (Part II, Section 1.1.1.1).

(30) The Guidelines on regional State aid[19] do not apply to aid for the production of primary agricultural products due to the specificities of the sector. They do however apply to the processing of agricultural products and to the marketing of agricultural products to the extent set out in these Guidelines.

(31) Both the general State aid rules and the more specific provisions of these Guidelines may concern undertakings active in the forestry sector or in rural areas. Where

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13 OJ C 80, 18.02.2022, p. 1.

14 OJ C 25, 26.1.2013, p. 1.

15 OJ C 508, 16.12.2021, p. 1.

16 OJ C 188, 11.8.2009, p. 1.

17 OJ C 188, 11.8.2009, p. 6.

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

19 OJ C 153, 29.4.2021, p. 1.

applicable, aid to undertakings active in the forestry sector or in rural areas may also be found compatible under the conditions and in compliance with general Union rules on State aid (in particular, with the Guidelines on regional State aid, the Framework for State aid for research and development and innovation and the Guidelines on State aid for climate, environmental protection and energy 2022).

2.4. Definitions

(32) For the purposes of these Guidelines:

1. 'active farmer' means a farmer as determined by a Member State in its CAP Strategic Plan[20] in accordance with Article 4(5) of Regulation (EU) 2021/2115;
2. ad hoc aid' means aid not granted on the basis of an aid scheme;
3. '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, in the case of agriculture, more than 30 % of the average production calculated on the basis of the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry; in the case of forestry, more than 20 % of the forestry potential;
4. 'advice' means complete advice given in the framework of one and the same contract;
5. 'agricultural activity' means an activity as determined by a Member State in its CAP Strategic Plan in accordance with Article 4(2) of Regulation (EU) 2021/2115;
6. 'agricultural area' means any area as determined by a Member State in its CAP Strategic Plan in accordance with Article 4(3) of Regulation (EU) 2021/2115;
7. 'agricultural holding' means a unit comprising of land, premises and facilities used for primary agricultural production;
8. 'agricultural product' means the products listed in Annex I to the Treaty, except fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council[21];
9. 'agricultural sector' means all undertakings active in primary production, processing and marketing of agricultural products;
10. 'agro-forestry systems' means land use systems in which trees are grown in combination with agriculture on the same land;
11. 'aid' means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;
12. 'aid intensity' means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;
13. 'aid scheme' means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid

[20] For the purposes of these Guidelines, where the Member States must define certain terms (such as 'active farmer') in their respective Strategic Plans, Northern Ireland must define these, in compliance with the applicable provisions of these Guidelines, in the notification to the Commission pursuant to Article 108(3) of the Treaty.

[21] Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

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;

14. ‘arm's length’ means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent undertakings and contain no element of collusion. Any transaction that results from an open, transparent and unconditional procedure is considered as meeting the arm's length principle;
15. ‘biosecurity measures’ means management and physical measures designed to reduce the risk of introduction, development and spread of diseases to, from and within: (a) an animal population, or (b) an establishment, zone, compartment, means of transport or any other facilities, premises or location;
16. ‘breeding book’ means breading book as provided for in Article 2(12) of Regulation (EU) 2016/1012 of the European Parliament and of the Council[22];
17. ‘CAP Strategic Plan’ means a CAP Strategic Plan as provided for in Article 1(1)(c) of Regulation (EU) 2021/2115;
18. ‘capitalised works’ means works, undertaken by the farmer personally or by the farmer's workers that create an asset;
19. ‘carbon farming schemes’ means aid schemes for improved land management practices resulting in carbon sequestration in living biomass, dead organic matter and soils by enhancing carbon capture and/or reducing the release of carbon to the atmosphere;
20. ‘catastrophic event’ means an unforeseen event of biotic or abiotic nature caused by human action that leads to important disturbances in forest structures, eventually causing important economic damage to the forestry sectors;
21. ‘cluster’ means a grouping of independent undertakings, including start-ups, small, medium and large enterprises as well as advisory bodies and/or research organisations designed to stimulate economic/ innovative activity by promoting intensive interactions, the sharing of facilities and the exchange of knowledge and expertise, as well as contributing effectively to knowledge transfer, networking and information dissemination among the undertakings in the cluster;
22. ‘control and eradication measures’ means measures regarding animal diseases for which a competent authority of a Member State has formally recognised an outbreak, or regarding plant pests or invasive alien species of Union concern or of Member State concern for which a competent authority of a Member State has formally acknowledged their presence;
23. ‘date of granting the aid’ means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime.
24. ‘environmental incident’ means a specific occurrence of pollution, contamination or degradation in the quality of the environment which is related to a specific event and is of limited geographical scope, which destroys more than 30 % of the average annual production of the undertaking active in the agricultural sector in the preceding three-year period or a three-year average based on the preceding five-year period, excluding

[22] Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) No 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding (‘Animal Breeding Regulation’) (OJ L 171, 29.6.2016, p. 66.).

the highest and lowest entry; in the case of forestry, more than 20 % of the forestry potential. It does not cover general environmental risks not connected with a specific event, such as climate change or atmospheric pollution;

25. ‘evaluation plan’ means a document covering one or more aid schemes and containing at least the following aspects: the objectives to be evaluated, the evaluation questions, the result indicators, the envisaged method to conduct the evaluation, the data collection requirements, the proposed timing of the evaluation including the date of submission of the interim and the final evaluation reports, the description of the independent body that will carry out the evaluation or the criteria that will be used for its selection and the modalities for making the evaluation publicly available;
26. ‘fallen stock’ means animals which have been killed by euthanasia with or without a definite diagnosis or which have died, including stillborn and unborn animals, on a farm or on any premises or during transport, but which have not been slaughtered for human consumption;
27. ‘fast growing trees’ means a short rotation forest, where the minimum time before felling is set to be not less than 8 years and the maximum time before felling is set not to exceed 20 years;
28. ‘fiscal successor scheme’ means a scheme in the form of tax advantages which constitutes an amended version of a previously existing scheme in the form of tax advantages and which replaces it;
29. ‘food and feed crop based biofuel’ means a biofuel produced from starch-rich crops, sugar crops or oil crops produced on agricultural land as a main crop excluding residues, waste or ligno-cellulosic material and intermediate crops, such as catch crops and cover crops, provided that the use of such intermediate crops does not trigger demand for additional land as defined in the Directive (EU) 2018/2001 of the European Parliament and of the Council[23];
30. ‘foodstuffs’ means foodstuffs which are not agricultural products and which are listed in Annex I to Regulation (EU) No 1151/2012 of the European Parliament and of the Council[24];
31. ‘forest’ means an area of land spanning more than 0,5 hectares with trees higher than 5 meters and a canopy cover of more than 10 %, or trees able to reach these thresholds in situ; and does not include land that is predominantly under agricultural or urban land use. A Member State or region may choose to apply another forest definition based on existing national legislation or inventory system. The Member States or regions must provide such definition in the notification and when it relates to a rural development intervention, it should be provided in the CAP Strategic Plan;
32. ‘gross grant equivalent’ means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charges;
33. ‘individual aid’ means ad hoc aid and awards of aid to individual beneficiaries on the basis of an aid scheme;
34. ‘intangible assets’ means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;

[23] Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

[24] Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

35. 'invasive alien species of Member State concern' means an invasive alien species as defined in Article 3(4) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council[25];
36. 'invasive alien species of Union concern' means an invasive alien species as defined in Article 3(3) of Regulation (EU) No 1143/2014;
37. ‘large enterprises’ means undertakings not fulfilling the criteria laid down in Annex I to Commission Regulation (EU) [new ABER] [26];
38. ‘local markets’ means:
    a. markets in a radius of 75 km from the farm of origin of the product, within which the activities of processing and sale to the final consumer have to take place; or
    b. markets for which the Member States set out a convincing alternative definition, not exceeding a radius of 100 km;
39. ‘marketing of agricultural products’ means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a farmer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers is considered as marketing of agricultural products if it takes place in separate premises reserved for that purpose;
40. ‘mutual fund’ means a scheme accredited by a Member State in accordance with its national law for affiliated farmers, forest holders and forest managers to insure themselves, whereby compensation payments are made to affiliated farmers, forest holders and forest managers who experience economic losses;
41. ‘non-productive investment’ means an investment which does not lead to a significant increase in the value or profitability of the holding;
42. ‘operations prior to industrial processing’ means felling, dismembering, stripping, cutting up, storage, protective treatment and drying of wood and all other working operations prior to the industrial sawing of wood at a sawing mill; as well as sawmilling where the maximum sawmilling capacity is 10 000 m^3 roundwood input for sawmilling per year;
43. ‘other adverse climatic event’ means unfavourable weather conditions which do not constitute an adverse climatic event which can be assimilated to a natural disaster’ ;
44. ‘outermost regions’ means the regions referred to in Article 349, first paragraph, of the Treaty;
45. ‘plant pest’ means Union quarantine pests, listed pursuant to Article 5(2) of Regulation 2016/2031 of the European Parliament and of the Council[27], and pests subject to the measures adopted pursuant to Article 30 of that Regulation;

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[25] Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJ L 317, 4.11.2014, p. 35).

[26] Commission Regulation (EU) No ... of ... 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on Functioning of the European Union and repealing Commission Regulation (EC) No 702/2014 (OJ reference).

[27] Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives

46. ‘prevention measures’ means measures regarding an animal disease, plant pest or invasive alien species of Union concern or of Member State concern that has not yet occurred;
47. ‘primary agricultural production’ means the production of products of the soil and of stock farming, listed in Annex I to the Treaty, without performing any further operation changing the nature of such products;
48. ‘processing of agricultural products’ means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for first sale;
49. ‘processing of agricultural products into non-agricultural products’ means any operation on an agricultural product resulting in a product which is not an agricultural product;
50. 'producer group or organisation' means a group or organisation set up for the purpose of at least one of the following:
    a. adapting the production and output of producers who are members of the group or organisation to market requirements;
    b. jointly placing goods on the market, including preparation for sale, centralisation of sales and supply to bulk buyers;
    c. establishing common rules on production information, with particular regard to harvesting and availability;
    d. other activities that may be carried out by producer groups or organisations, such as the development of business and marketing skills, the organisation and facilitation of innovation processes, joint management of the members’ land, and the use of environmentally sound cultivation practices and production techniques and sound animal welfare practices and techniques;
51. ‘protected animal’ means any animal protected either by Union or by national legislation, including animal species for which national legislation provides specific rules to preserve the population;
52. ‘repayable advance’ means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;
53. ‘research and knowledge-dissemination organisation’ means an entity (such as universities or research institutes, technology-transfer agencies, innovation intermediaries, research-oriented physical and/or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development, as defined in the Framework for State aid for research and development and innovation or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such entity also pursues economic activities, the financing, the costs and the revenues of economic activities must be accounted for separately. Undertakings that can exert influence upon such an entity, in the quality of, for example, shareholders or members,

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69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p. 4).

may not enjoy preferential access to its research capacities of such an entity or to the results generated by it;

54. ‘short supply chain’ means a supply chain involving a limited number of economic operators, committed to cooperation, local economic development, and close geographical and social relations between producers, processors and consumers;
55. ‘small-scale infrastructure’ means infrastructure with eligible costs limited to EUR 2 million;
56. ‘small operator’ means a microenterprise as defined in Commission Recommendation 2003/361[28], or a natural person not engaged in economic activity at the moment of applying for aid;
57. ‘smaller Aegean islands’ means the smaller islands referred to in Article 1(2) of Regulation (EU) No 229/2013;
58. ‘SMEs’ or ‘micro, small and medium-sized enterprises’ means undertakings fulfilling the criteria laid down in Annex I to Commission Regulation (EU) [new ABER];
59. ‘start of works on the project or activity’ means the earlier of, either the start of the activities, or the construction works relating to the investment, or the first legally binding commitment to order equipment or employ services or any other commitment that makes the project or activity irreversible; buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works or activity. The purchase of land referred to in point (150)(a) and point (498)(c) where the eligible costs for the land purchase equals 100 % of the eligible investment costs, is considered to be the start of works on a project or an activity;
60. ‘subsidised services’ means a form of aid where the aid is granted to the final beneficiary indirectly, in kind, and is paid to the provider of the service or activity in question. In these cases, the compatibility assessment pursuant to Article 107(3), point (c), of the Treaty as set out in Chapter 3 of these Guidelines and the specific conditions of these Guidelines apply to the final beneficiary;
61. ‘sustainable forest management’ means the stewardship and use of forest lands in a way and at a rate that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil now and in the future relevant ecological, economic and social functions at local, national and global levels and that does not cause damage to other ecosystems;
62. ‘tangible assets’ means assets consisting of land, buildings and plant, machinery and equipment;
63. ‘transaction cost’ means an additional cost linked to fulfilling a commitment, but not directly attributable to its implementation or not included in the costs or income foregone that are compensated directly; and which can be calculated on a standard cost basis;
64. ‘Transmissible Spongiform Encephalopathy (TSE) and Bovine Spongiform Encephalopathy (BSE) test costs’ means all costs, including those for test kits and for the taking, transporting, testing, storing and destruction of samples, necessary

[28] Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

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[29];

65. 'trees for short rotation coppicing' means tree species of CN code 06 02 9041 to be defined by Member States that consist of woody, perennial crops, the rootstock or stools of which remain in the ground after harvesting, with new shoots emerging in the following season and with a maximum harvest cycle to be determined by the Member States;
66. ‘undertaking in difficulty’ means an undertaking fulfilling the criteria laid down in Section 2.2 of the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty;
67. ‘Union standard’ means mandatory standard laid down in Union legislation setting the level which individual undertakings must achieve, in particular as regards the environment, hygiene and animal welfare; consequently, standards or targets set at Union level which are binding for Member States but not for individual undertakings are not deemed to be Union standards;
68. ‘young farmer’ means a farmer as determined by a Member State in its CAP Strategic Plan in accordance with Article 4(6) of Regulation (EU) 2021/2115;
69. for the purposes of conservation of genetic resources in agriculture and in forestry:
    (a) ‘in situ conservation’ in agriculture means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species or feral breeds in their natural surroundings and, in the case of domesticated animal breeds or cultivated plant species, in the farmed environment where they have developed their distinctive properties;
    (b) ‘in situ conservation’ in forestry means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species in their natural surroundings;
    (c) ‘on-farm or on-forest holding conservation’ means in situ conservation and development at farm or forest holding level;
    (d) ‘ex situ conservation’ means the conservation of genetic material for agriculture or forestry outside their natural habitat;
    (e) ‘ex situ collection’ means a collection of genetic material for agriculture or forestry maintained outside their natural habitat.

2.5. *Notifiable aid*

(33) Where the conditions of Article 107(1) of the Treaty are met, Member States must notify aid in the agricultural and forestry sectors and in rural areas to the Commission pursuant to Article 108(3) of the Treaty. The Member States must not put the proposed measure into effect until the notification procedure referred to in Article 108(2) of the Treaty has resulted in a final decision, with the exception of measures that fulfil the conditions laid down in a block exemption regulation [new ABER].

[29] Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1).

(34) Individual aid granted on the basis of an aid scheme remains subject to the notification obligation pursuant to Article 108(3) of the Treaty, if the aid exceeds the following notification thresholds:

(a) for individual investment aid for the processing of agricultural products and the marketing of agricultural products under Part II, Section 1.1.1.4: eligible costs in excess of EUR 25 million, or where the gross grant equivalent exceeds EUR 12 million;

(b) for aid for promotion campaigns under Part II, Section 1.3.2: promotion campaigns with an annual budget in excess of EUR 5 million.

Chapter 3. Compatibility assessment pursuant to Article 107(3), point (c), of the Treaty

(35) On the basis of Article 107(3), point (c), of the Treaty, the Commission may consider compatible with the internal market State aid to facilitate the development of certain economic activities, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

(36) Consequently, in order to assess whether State aid for agriculture, forestry and rural areas can be considered compatible with the internal market, the Commission will determine whether the aid measure facilitates the development of a certain economic activity (first condition) and whether it adversely affects trading conditions to an extent contrary to the common interest (second condition).

(37) In this Section, the Commission clarifies how it will carry out the compatibility assessment. It establishes general compatibility conditions and, where applicable, lays down specific conditions for aid schemes and additional conditions for individual aid which is subject to the obligation of notification.

(38) In order to make the assessment referred to in point (36), the Commission will consider the following aspects:

(a) First condition: aid facilitates the development of an economic activity:

(i) identification of the economic activity concerned (Section 3.1.1);
(ii) 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 (Section 3.1.2);
(iii) the aid does not contravene relevant provisions and general principles of Union law (Section 3.1.3).

(b) Second condition: aid does not unduly affect trading conditions to an extent contrary to the common interest:

(i) need for State intervention: the aid measure must bring about a material improvement that the market cannot deliver by itself, for example by remedying a market failure or addressing an equity or cohesion concern where applicable (Section 3.2.1);
(ii) appropriateness of the aid measure: the proposed aid measure must be an appropriate policy instrument to facilitate the development of the economic activity (Section 3.2.2);

(iii) proportionality of the aid (aid limited to the minimum necessary): the amount and intensity of the aid must be limited to the minimum needed to induce the additional investment or activity by the undertaking(s) concerned (Section 3.2.3);

(iv) transparency of aid: Member States, the Commission, economic operators, and the public, must have easy access to all relevant acts and to pertinent information about the aid granted thereunder (Section 3.2.4);

(v) avoidance of undue negative effects of the aid on competition and trade (Section 3.2.5);

(vi) weighing up the positive and negative effects that aid can have on competition and trade between Member States (balancing test) (Section 3.2.6).

(39) The overall balance of certain categories of schemes may further be made subject to a requirement of ex post evaluation as described in points (634) to (640). In such cases, the Commission may limit the duration of those schemes (normally to four years or less) with a possibility to re-notify their prolongation afterwards.

(40) These general compatibility criteria apply to all aid under these Guidelines, unless derogations are provided for in Sections 3.1 and 3.2 of this Part, due to particular considerations applicable in the agricultural sector.

3.1. First condition: aid facilitates the development of an economic activity

3.1.1. Aided economic activity

(41) The Commission will identify, based on the information provided by the Member State, which economic activity will be supported by the notified measure.

(42) The Member State must demonstrate that the aid aims at facilitating the development of the identified economic activity.

(43) The Commission considers that aid granted in compliance with Section 1.2 can facilitate the development of the identified economic activity or area, as without aid such development may not take place to the same extent.

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

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

3.1.2. Incentive effect

(45) Aid in the agricultural and forestry sectors and in rural areas can only be found compatible with the internal market if it has an incentive effect. An incentive effect is present when the aid changes the behaviour of an undertaking in such a way that it engages in additional activity contributing to the development of the sector which it would not have engaged in without the aid or in which it would only have engaged in a restricted or different manner. The aid must however not subsidise the costs of an

activity that an undertaking would have incurred in any event and must not compensate for the normal business risk of an economic activity.

(46) Unless exceptions are expressly provided for in Union legislation or in these Guidelines, State aid measures which are simply intended to improve the financial situation of undertakings but which in no way contribute to the development of the sector, and in particular aid which is granted solely on the basis of price, quantity, unit of production or unit of the means of production are considered to constitute operating aid which is incompatible with the internal market. Furthermore, by its very nature, such aid is also likely to interfere with the mechanisms regulating the organisation of the internal market.

(47) Aid granted under Part II, Sections 1.2 and 2.8.5 should be limited to helping undertakings active in the agricultural and forestry sectors facing various difficulties despite having undertaken reasonable efforts to minimise such risks. State aid should not have as an effect to entice undertakings into taking unnecessary risk. Undertakings active in the agricultural and forestry sectors should themselves bear the consequences of imprudent choices of production methods or products.

(48) For the reasons explained in point (45), the Commission considers that aid does not present an incentive for the beneficiary wherever work on the relevant project or activity has already started prior to the aid application by the beneficiary to the national authorities.

(49) The aid application must include at least the applicant's name and the size of the undertaking, a description of the project or activity, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs.

(50) In addition, large enterprises must describe in the application the situation without the aid, which situation is referred to as the counterfactual scenario or alternative project or activity and submit documentary evidence in support of the counterfactual described in the application. This requirement does not apply to municipalities that are autonomous local authorities with an annual budget of less than EUR 10 million and fewer than 5 000 inhabitants.

(51) When receiving an application, the granting authority must carry out a credibility check of the counterfactual and confirm that the aid has the required incentive effect. A counterfactual is credible if it is genuine and relates to the decision-making factors prevalent at the time of the decision by the beneficiary regarding the project or activity concerned.

(52) By way of derogation from points (48) to (51), aid in the form of tax advantages granted to SMEs is deemed to have an incentive effect if the aid scheme establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State and if the aid scheme has been adopted and in force before work on the aided project or activity has started. The latter requirement does not apply in the case of fiscal successor schemes provided the activity was already covered by the previous schemes in the form of tax advantages.

(53) By way of derogation from points (48) to (52), the following categories of aid are not required to have or are deemed to have an incentive effect:

(a) aid schemes for land consolidation in accordance with Part II, Section 1.3.4 and Section 2.9.2 and aid schemes with ecological, protective and recreational objectives in accordance with Part II, Section 2.8 and where the following conditions are fulfilled:

(i) the aid scheme establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State;
(ii) the aid scheme has been adopted and is in force before eligible costs under Part II, Sections 1.3.4, 2.9.2 and 2.8 are incurred by the beneficiary;
(iii) the aid scheme only covers SMEs;

(b) aid for area-specific disadvantages resulting from certain mandatory requirements in accordance with Part II, Section 1.1.6;
(c) aid to areas facing natural or other specific constraints in accordance with Part II, Section 1.1.7;
(d) aid for information actions in the agricultural sector in accordance with Part II, Section 1.1.10.1, which consists of making available the information to an undefined number of beneficiaries;
(e) aid to make good the damage caused by natural disasters or exceptional occurrences in accordance with Part II, Section 1.2.1.1;
(f) aid to compensate for the damage caused by adverse climatic events which can be assimilated to natural disaster in accordance with Part II, Section 1.2.1.2;
(g) aid to compensate for the costs of the prevention, control and eradication of animal diseases and plant pests and for losses caused by those animal diseases and plant pests in accordance with Part II, Section 1.2.1.3;
(h) aid to cover the costs of the removal and destruction of fallen stock in accordance with Part II, Section 1.2.1.4;
(i) aid to compensate for the damage caused by protected animals in accordance with Part II, Section 1.2.1.5;
(j) aid to make good the damage in forests caused by animals regulated by law in accordance with Part II, Section 2.8.5;
(k) aid for information actions in the forestry sector in accordance with Part II, Section 2.4, which consists of making available the information to an undefined number of beneficiaries;
(l) aid for investments in favour of conservation of cultural and natural heritage on the agricultural holding in accordance with Part II, Section 1.1.1.2, with the exception of individual aid which exceeds EUR 500 000 per undertaking per investment project;
(m) aid for promotion measures in accordance with point (464) (b), (c) and (d);
(n) aid to compensate for additional transport costs in accordance with points (476) and (477);
(o) aid for research and development in the agricultural and forestry sectors in accordance with Part II, Section 1.3.6 and Section 2.9.1;
(p) aid for the restoration of damage to forests from fires, natural disasters, adverse climatic events, plant pests, animal diseases, catastrophic events and climate change related events in accordance with Part II, Section 2.1.3;
(q) aid for the costs of treatment and preventing the spreading of pests and tree diseases and aid to make good the damage caused by the pests and tree diseases in accordance with Part II, Section 2.8.1.

Additional conditions for individually notifiable investment aid

(54) In addition to the requirements set out in this Section, for individually notifiable investment aid, the Member State must provide clear evidence that the aid effectively

has an impact on the investment choice. To allow for a comprehensive assessment, the Member State must provide not only information concerning the aided project but also a comprehensive description of the counterfactual scenario, in which no aid is granted to the beneficiary by any public authority.

(55) The Member States are invited to draw on genuine and official board documents, risk assessments, including the assessment of location-specific risks, financial reports, internal business plans, expert opinions and other studies related to the investment project under assessment. Those documents need to be contemporary to the decision-making process concerning the investment or its location. Documents containing information on demand forecasts, cost forecasts, financial forecasts, documents that are submitted to an investment committee and that elaborate on various investment scenarios, or documents provided to the financial institutions could help the Member States to demonstrate the incentive effect.

(56) In this context the level of profitability may be evaluated by using methods that are standard practice in the sector concerned and which may include methods to evaluate the net present value (NPV)[30] of the project, the internal rate of return (IRR)[31] or the average return on capital employed (ROCE). The profitability of the project is to be compared with normal rates of return applied by the beneficiary in other investment projects of a similar kind. Where these rates are not available, the profitability of the project is to be compared with the cost of capital of the undertaking as a whole or with the rates of return commonly observed in the sector concerned.

(57) Where no specific counterfactual scenario is known, the incentive effect can be assumed when there is a funding gap. That is when the investment costs exceed the NPV of the expected operating profits of the investment on the basis of an ex ante business plan.

(58) If the aid does not change the behaviour of the beneficiary by stimulating additional investment, it has no positive effects for development of the sector concerned. Therefore, aid will not be considered compatible with the internal market if it appears that the same investment would still be pursued without the aid.

3.1.3. No breach of relevant provisions and general principles of Union law

(59) If a State aid measure, the conditions attached to it, including its financing method when the financing method forms an integral part of the State aid measure, or the activity it finances entails a violation of relevant Union law, the aid cannot be declared compatible with the internal market[32].

(60) Due to the specificity of the agricultural sector[33], although State aid rules are generally applicable to this sector, their application nevertheless remains subject to

[30] The NPV of a project is the difference between the positive and negative cash flows over the lifetime of the investment, discounted to their current value (typically using the cost of capital).

[31] The IRR is not based on accounting earnings in a given year, but takes into account the stream of future cash flows that the investor expects to receive over the entire lifetime of the investment. It is defined as the discount rate for which the NPV of a stream of cash flows equals zero.

[32] See for instance judgment of 19 September 2000, *Germany* v *Commission*, C-156/98, EU:C:2000:467, paragraph 78; judgment of 22 December 2008, *Regie Networks*, C-333/07, EU:C:2008:764, paragraphs 94-116; judgment of 14 October 2010, *Nuova Agricast* v *Commission*, C-67/09 P, EU:C:2010:607, paragraph 51; and judgment of 22 September 2020, *Austria* v *Commission*, C-594/18 P, EU:C:2020:742, paragraph 44;

[33] See points (6)-(10).

the provisions laid down in the regulations of the first pillar of the CAP. In other words, Member States' recourse to State aid measures cannot take precedence over Regulation (EU) No 1308/2013[34]. Therefore, the Commission will not authorise State aid which is incompatible with the provisions governing the common organisation of the market or which would interfere with the proper functioning of the common organisation of the market.

(61) Specific conditions on the compliance with the principles of the common organisation of the markets in agricultural products are set out in Part II, Section 1.1.1.1 on investment aid on agricultural holdings linked to the primary agricultural production, in Section 1.1.3 on start-up aid for producer groups and organisations and in Section 1.2.2 on aid for closing of production capacity.

3.2. Second condition: aid does not unduly affect trading conditions to an extent contrary to the common interest

(62) Pursuant to Article 107(3), point (c), of the Treaty, aid to facilitate the development of certain economic activities or of certain economic areas can be declared compatible, but only "where such aid does not adversely affect trading conditions to an extent contrary to the common interest."

(63) This Section sets out the method of exercise of the Commission's discretion in carrying out the assessment under the second condition of the compatibility assessment referred to in point (38)(b).

(64) By its very nature, any aid measure generates distortions of competition and has an effect on trade between Member States. However, in order to establish if the distortive effects of the aid are limited to the minimum, the Commission will verify whether the aid is necessary, appropriate, proportionate and transparent.

(65) The Commission will then assess the distortive effect of aid in question on competition and trading conditions. The Commission will then balance the positive effects of the aid with its negative effects on competition and trade. Where the positive effects outweigh the negative effects, the Commission will declare the aid compatible.

(66) The compliance of aid with conditions laid down in sections 3.2.1 to 3.2.5 of this Chapter must be seen in the specific context of the CAP.

3.2.1. Need for State intervention

(67) To assess whether State aid is necessary for achieving the intended outcome, it is first necessary to diagnose the problem. State aid must be targeted to situations where aid can bring about a material development that the market cannot deliver, for example by remedying a market failure to the aided activity or investment in question. State aid measures can indeed, under certain conditions, correct market failures thereby contributing to the efficient functioning of markets and enhancing competitiveness.

(68) For the purposes of these Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid

[34] See judgment of 26 June 1979, *Pigs and Bacon Commission*, 177/78, EU:C:1979:164, paragraph 11.

measures fulfilling the specific conditions laid down in Part I. Therefore, such aid should be considered necessary.

3.2.2. Appropriateness of aid

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

Appropriateness among alternative policy instruments

(70) The Commission considers that aid granted in the agricultural and forestry sectors, which fulfils the specific conditions laid down in the relevant Sections of Part II, is an appropriate policy instrument.

(71) Where a Member State decides to put in place a rural development-like aid measure financed exclusively from national funds, when at the same time the same intervention is provided for in the relevant the CAP Strategic Plan, the Member State should demonstrate the advantages of such a national aid instrument compared to the CAP Strategic Plan intervention at stake.

Appropriateness among different aid instruments

(72) Aid can be granted in various forms. The Member State should however ensure that the aid is granted in the form that is likely to generate the least distortions of trade and competition.

(73) Where a specific form is set out for an aid measure as described in Part II, such form is considered to be an appropriate aid instrument for the purpose of these Guidelines.

(74) The Commission considers that aid granted in the form provided for in the respective rural development interventions, co-financed by EAFRD or granted as an additional financing for such co-financed rural development interventions, is an appropriate aid instrument.

(75) As regards investment aid not included in a CAP Strategic Plan or as additional financing for such a rural development intervention, where the aid is granted in forms that provide a direct pecuniary advantage (for example, direct grants, exemptions or reductions in taxes, social security or other compulsory charges, etc.), the Member State must demonstrate why other potentially less distortive forms of aid such as repayable advances or forms of aid that are based on debt or equity instruments (for example, low-interest loans or interest rebates, State guarantees or an alternative provision of capital on favourable terms) are less appropriate.

(76) With regard to forestry measures referred to in Part II, Section 2.8, Member States must demonstrate that the ecological, protective and recreational objectives they are aiming for cannot be achieved with the rural development-like forestry measures referred to in Part II, Chapters 2.1 to 2.7.

(77) In the case of several categories of aid, such as aid towards the costs of market research activities, product conception and design and for the preparation of applications for the recognition of quality schemes, aid for knowledge transfer and information actions, aid for advisory services, aid for farm replacement services, aid for promotion measures, aid to compensate for the costs of the prevention and eradication of animal diseases, plant pest and invasive alien species of Union concern and of Member State concern and aid to the livestock sector, the aid must be granted to the final aid beneficiaries by means of subsidised services. In these cases, the aid is paid to the provider of the service or activity in question.

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

3.2.3. Proportionality of the aid

(79) Aid is considered to be proportionate if the aid amount per beneficiary is limited to the minimum needed for carrying out the aided activity.

Maximum aid intensities and maximum aid amounts

(80) In principle, in order for the aid to be proportionate, the Commission considers that the aid amount should not exceed the eligible costs. This is without prejudice to rules for environmental or other public incentives that are expressly provided for in Part II, Sections 1.2.2, 2.1.4 and 2.3.

(81) In order to ensure predictability and a level playing field, the Commission applies maximum aid intensities for aid. Where the maximum aid intensity cannot be set, for example in the case of start-up aid for young farmers and the development of small farms, maximum aid amounts defined in nominal terms are set out in order to ensure the proportionality of the aid.

(82) If the eligible costs are correctly calculated and the maximum aid intensities or maximum aid amounts set out in Part II are respected, the criterion of proportionality is deemed to be fulfilled.

(83) The maximum aid intensity and aid amount must be calculated by the granting authority when granting the aid. The eligible costs must be supported by documentary evidence which should be clear, specific and contemporary. For the purposes of calculating the aid intensity and the eligible costs, all figures used must be taken before any deduction of tax or other charge.

(84) Value added tax (VAT) is not eligible for aid, except where it is not recoverable under national VAT legislation.

(85) Where aid is granted in a form other than a grant, the aid amount is the gross grant equivalent of the aid.

(86) Aid payable in several instalments is discounted to its value at the moment of granting the aid. The eligible costs are discounted to their value at the moment of granting the aid. The interest rate to be used for discounting purposes is the discount rate applicable on the date of granting the aid.

(87) Aid payable in the future, including aid payable in several instalments, is discounted to its value at the moment it is granted.

(88) Where aid is granted by means of tax advantages, the discounting of aid tranches takes place on the basis of the discount rates applicable at the various times the tax advantage takes effect.

(89) Member States may fix the aid amount for the measures or types of operations referred to in Part II, Sections 1.1.4, 1.1.5, 1.1.6, 1.1.7, 1.1.8, 2.1.1, 2.1.2, 2.1.4, 2.2 and 2.3 on the basis of standard assumptions of additional costs and income foregone. Member States should ensure that the calculations and the corresponding aid fulfil all of the following:

(a) contain only elements that are verifiable;

(b) are based on figures established by appropriate expertise;

(c) indicate clearly the source of the figures used;

(d) are differentiated to take account of regional or local site conditions and actual land use, where applicable;

(e) do not contain elements linked to investment costs.

(90) Without prejudice to point (89), aid, with the exception of aid covered by Part II, Sections 1.2 and 2.8.5, may be granted according to the following simplified cost options:

(a) unit costs;

(b) lump sums;

(c) flat-rate financing.

The aid amount must be established in one of the following ways:

(a) a fair, equitable and verifiable calculation method based on one or more of the following:

(i) statistical data, other objective information or an expert judgement;

(ii) verified historical data of individual beneficiaries;

(iii) the application of usual cost accounting practices of individual beneficiaries;

(b) in accordance with the rules for application of corresponding unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation.

(91) As regards co-financed measures, the amounts of eligible costs may be calculated in accordance with the simplified cost options set out in Regulation (EU) 2021/1060 of the European Parliament and of the Council[35] and Regulation (EU) 2021/2115 .

(92) When assessing the compatibility of aid, the Commission will consider any insurance taken out, or which could have been taken out by the aid beneficiary. Regarding aid to compensate for losses caused by adverse climatic events which can be assimilated to a natural disaster, in order to avoid the risk of distorting competition, aid at the maximum aid intensity should be granted only to an undertaking that cannot be covered for such losses by insurance. This is why, in order to further improve risk management, beneficiaries must be encouraged to take out insurance wherever possible.

[35] Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

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

(93) As a general rule, individually notifiable investment aid will be considered to be limited to the minimum if the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual scenario in the absence of aid[36], with maximum aid intensities as a cap. Likewise, in the case of investment aid granted to large enterprises under notified schemes, Member States must ensure that the aid amount is limited to the minimum on the basis of a 'net-extra cost approach', with maximum aid intensities as a cap.

(94) The aid amount should not exceed the minimum necessary to render the project sufficiently profitable, for example, it should not lead to an increase of its IRR beyond the normal rates of return applied by the undertaking concerned in other investment projects of a similar kind or, if these rates are not available, to an increase of its IRR beyond the cost of capital of the undertaking as a whole or beyond the rates of return commonly observed in the sector concerned.

(95) For investment aid to large enterprises under notified schemes, the Member State must ensure that the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual scenario in the absence of aid. The method explained in point (94) must be used together with maximum aid intensities as a cap.

(96) As regards individually notifiable investment aid, the Commission will verify whether the aid amount exceeds the minimum necessary to render the project sufficiently profitable, by using the method set out in point (94). Calculations used for the analysis of the incentive effect can also be used to assess if the aid is proportionate. The Member State must demonstrate the proportionality on the basis of documentation such as that referred to in point (55).

(97) Points (93) to (96) do not apply to municipalities that are autonomous local authorities with an annual budget of less than EUR 10 million and fewer than 5 000 inhabitants, referred to in point (50).

Cumulation of aid

(98) Aid may be granted concurrently under several schemes or cumulated with ad hoc aid, provided that the total amount of State aid for an activity or project does not exceed the aid ceilings laid down in these Guidelines.

(99) Aid with identifiable eligible costs may be cumulated with any other State aid, as long as those aids concern different identifiable eligible costs. Aid with identifiable eligible costs may be cumulated with any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this type of aid under these Guidelines.

(100) Aid without identifiable eligible costs under Part II, Section 1.1.2 may be cumulated with any other State aid measure with identifiable eligible costs. Aid without identifiable eligible costs may be cumulated with other State aid without identifiable

[36] When comparing counterfactual scenarios, the aid is to be discounted by the same factor as the corresponding investment and counterfactual scenarios.

eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by these Guidelines or other State aid guidelines, a block exemption regulation or a decision adopted by the Commission.

(101) State aid in favour of the agricultural sector should not be cumulated with payments referred to in Articles 145 and 146 of Regulation (EU) 2021/2115 in respect of the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding those laid down in these Guidelines.

(102) State aid granted under Sections 1.1.4, 1.1.5 and 1.1.8 of Part II should not be cumulated with payments referred to in Article 31 of Regulation (EU) 2021/2115 in respect of the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding those laid down in these Guidelines.

(103) Where Union funding centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union that is not directly or indirectly under the control of the Member State is combined with State aid, only the latter will be considered for determining whether notification thresholds and maximum aid intensities and ceilings are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rate(s) laid down in the applicable rules of Union law.

(104) Aid authorised under these Guidelines should not be cumulated with any de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding that fixed in these Guidelines.

(105) Aid for investments aimed at the restoration of agricultural production potential as referred to in point (149)(d) should not be cumulated with aid for the compensation of material damage referred to in Sections 1.2.1.1, 1.2.1.2 and 1.2.1.3.

(106) Start-up aid for producer groups and organisations in the agricultural sector as referred to in Part II, Section 1.1.3 should not be cumulated with the corresponding support for producers groups and organisations in the agricultural sector as referred to in Article 77 of Regulation (EU) 2021/2115. Start-up aid for young farmers, start-up aid for the development of small farms and start-up aid for agricultural activities as referred to in Section 1.1.2 should not be cumulated with the corresponding support as referred to in Article 75 of Regulation (EU) 2021/2115 if such cumulation would result in an aid amount exceeding those laid down in these Guidelines.

3.2.4. Transparency

(107) Member States must ensure the publication of the following information in the European Commission's transparency award module[37] or on a comprehensive State aid website at national or regional level:

(a) the full text of the aid scheme and its implementing provisions or legal basis for individual aid, or a link to it;

(b) the identity of the granting authority or authorities;

(c) the identity of the individual beneficiaries, the form and amount of aid granted to each beneficiary, the date of granting, the type of undertaking (SME/ large enterprise), the region in which the beneficiary is located (at NUTS level II) and the principal economic sector in which the beneficiary has its activities (at

[37] 'State Aid Transparency Public Search', available at the following website: hiips://webgate.ec.europa.eu/competition/transparency/public?lang=en

NACE group level). Such a requirement can be waived with respect of individual aid awards not exceeding the following thresholds:

(i) EUR 10 000 for beneficiaries active in the primary agricultural production;

(ii) EUR 100 000 for beneficiaries in the sectors of the processing of agricultural products, the marketing of agricultural products, the forestry sector or activities falling outside the scope of Article 42 of the Treaty.

(108) For aid schemes in the form of tax advantages the information on individual aid amount can be provided in the following ranges (in EUR million): 0,01-0,1 only for primary agricultural production; 0,1-0,5; 0,5-1; 1 to 2; 2 to 5; 5 to 10; 10 to 30; and 30 and more.

(109) Such information must be published after the decision to grant the aid has been taken, must be kept for at least 10 years and be available for the general public without restrictions[38].

(110) For reasons of transparency Member States must carry out reporting and revision as required in Part III, Chapter 2.

3.2.5. Undue negative effects on competition and trade

(111) Aid for the agricultural and forestry sectors and for rural areas may potentially cause product market distortions. For the aid to be compatible, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be minimised.

(112) The Commission will identify the market(s) affected by the aid, taking into account the information provided by the Member State on the product market(s) concerned, that, is to say the market(s) affected by the change in behaviour of the aid beneficiary. In assessing the negative effects of the aid measure, the Commission will focus its analysis of the distortions of competition on the predictable impact the aid in the agricultural and forestry sectors and in rural areas has on competition between undertakings in the product market(s) affected[39].

(113) As a starting point, if the aid is well targeted, proportionate and limited to the net extra costs, the negative impact of the aid is softened and the risk that the aid will unduly distort competition will be more limited. Second, the Commission establishes maximum aid intensities or aid amounts. The aim is to prevent the use of State aid for projects where the ratio between aid amount and eligible costs is to be deemed very high and particularly likely to be distortive. In general, the greater the positive effects the aided project is likely to give rise to and the higher the likely need for aid, the higher the cap on aid intensity.

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

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

(114) However, even where aid is necessary and proportionate, it may result in a change of the behaviour of the beneficiaries which distorts competition. This is more likely in the agricultural sector which differs from other markets by the specific structure of primary agricultural production that is characterized by a high number of small undertakings involved. On such markets the risk of distortion of competition is high even when only small amounts of aid are granted.

(115) In certain situations, the negative effects manifestly outweigh any positive effects, meaning that aid cannot be found to be compatible with the internal market. In particular, according to the general principles of the Treaty, State aid cannot be considered compatible with the internal market if the aid measure is discriminatory to an extent not justified by its State aid character. As explained in Section 3.1.3, the Commission will thus not declare compatible any measure where such measure or the conditions attached to it entail a violation of relevant Union law. This is particularly the case for aid measures where the award of aid is subject to the obligation for the beneficiary to use national products or services, as well as for aid measures restricting the possibility for the beneficiary to exploit the research, development and innovation results in other Member States.

(116) The Commission will not authorise aid for export-related activities to third countries or to Member States which would be directly linked to the quantities exported, aid contingent upon the use of domestic over imported goods, or aid to establish and operate a distribution network or to cover any other expenditure linked to export activities. Aid towards the cost of participating in trade fairs, or of studies or consultancy services needed for the launch of a new or existing product on a new market in principle does not constitute export aid.

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

(117) Because investment aid to undertakings active in the processing of agricultural products and the marketing of agricultural products and to undertakings active in other sectors, for example, in the food processing sector, tends to have similar distortive effects on competition and trade, the general competition policy considerations on the effect on competition and trade should apply equally to all those sectors. Therefore, the conditions described in points (118) to (130) must be respected as regards investment aid for the processing of agricultural products and for the marketing of agricultural products and in the forestry sector.

(118) Aid schemes must not lead to significant distortions of competition and trade. In particular, even where distortions may be considered limited at an individual level (provided all conditions for investment aid are fulfilled), on a cumulative basis investment aid schemes might still lead to high levels of distortion. In the case of an investment aid scheme focusing on certain sectors, the risk of such distortions is even more pronounced.

(119) Therefore, the Member State concerned must demonstrate that any negative effects will be limited to the minimum taking into account, for example, the size of the projects concerned, the individual and cumulative aid amounts, the expected beneficiaries as well as the characteristics of the targeted sectors. In order to enable the Commission to assess the likely negative effects, the Member State is encouraged

to submit any impact assessment at its disposal as well as ex-post evaluations carried out for similar schemes.

Individually notifiable investment aid for the processing of agricultural products and the marketing of agricultural products and in the forestry sector

(120) In appraising the negative effects of individual investment aid, the Commission places particular emphasis on the negative effects linked with the build-up of overcapacity in declining markets, the prevention of exit, and the notion of substantial market power. These negative effects are described in points (121) to (130) and must be counterbalanced with the positive effects of the aid.

(121) In order to identify and assess the potential distortions of competition and trade, Member States should provide evidence permitting the Commission to identify the product markets concerned (that is to say, products affected by the change in the behaviour of the aid beneficiary) and to identify the competitors and customers/consumers affected. The product concerned is typically the product covered by the investment project[40]. When the project concerns an intermediate product and a significant part of the output is not sold on the market, the product concerned may be the downstream product. The relevant product market includes the product concerned and its substitutes considered to be such, either by the consumer (by reason of the product's characteristics, prices, or intended use) or by the producer (by reason of flexibility of production installations).

(122) The Commission uses various criteria to assess those potential distortions, such as market structure of the product concerned, performance of the market (declining or growing market), process for selection of the aid beneficiary, entry and exit barriers, product differentiation.

(123) A systematic reliance on State aid by an undertaking could indicate that the undertaking is unable to withstand competition on its own or that it derives undue advantages compared to its competitors.

(124) The Commission distinguishes two main sources of potential negative effects on product markets:

(a) cases of significant capacity expansion which leads to or deteriorates an existing situation of overcapacity, especially in a declining market; and

(b) cases where the aid beneficiary holds substantial market power.

(125) To evaluate whether the aid serves to create or maintain inefficient market structures, the Commission will take into account the additional production capacity created by the project and whether the market is underperforming.

(126) If the market in question is growing, there is typically less cause for concern that the aid will negatively affect dynamic incentives or will unduly impede market exit or entry.

(127) More concern is warranted when markets are in decline. The Commission distinguishes between cases for which, with a long-term outlook, the market is structurally in decline (i.e. it is contracting), and cases for which the market is in relative decline (i.e. it is still growing, but does not exceed a benchmark growth rate).

[40] For investment projects that involve the production of several different products, each product must be assessed.

(128) Underperformance of the market is typically measured against the EEA GDP over the three years before the start of the project (benchmark rate). It can also be measured on the basis of projected growth rates for the next three to five years. Indicators may include the expected future growth of the market concerned and the resulting expected capacity utilisation rates, and the likely impact of the capacity increase on competitors in terms of prices and profit margins.

(129) In certain cases, assessing the growth of the product market in the EEA may not be appropriate to entirely assess all the effects of aid, in particular if the geographic market is global. In such cases, the Commission will consider the effect of the aid on the market structures concerned, in particular, its potential to crowd out producers in the EEA.

(130) To evaluate the existence of substantial market power, the Commission will take into account the position of the beneficiary over a period of time before receiving the aid and the expected market position after finalising the investment. The Commission will take account of the market shares of the beneficiary, as well as of the market shares of its competitors and other relevant factors. For example, it will assess the market structure by looking at market concentration, potential barriers to entry[41], buyer power[42] and barriers to expansion or exit.

3.2.6. Weighing up the positive and the negative effects of the aid (balancing test)

(131) The Commission assesses whether the positive effects of the aid measure outweigh the identified negative effects on competition and trading conditions. The Commission may conclude on the compatibility of the aid measure with the internal market only where the positive effects outweigh the negative ones.

(132) In cases where the proposed aid measure does not address a well-identified market failure in an appropriate and proportionate way, the negative distortive effects on competition will tend to outweigh the positive effects of the measure hence the Commission is likely to conclude that the proposed aid measure is incompatible.

(133) In principle, due to its positive effects on the development of the sector, the Commission considers that where an aid fulfils the conditions and does not exceed the relevant maximum aid intensities or maximum aid amounts, laid down in the applicable Sections of Part II, the negative effect on competition and trade is limited to the minimum.

(134) Without prejudice to other points of this Section, the Commission will consider the positive effects of aid to be established when the following conditions are met where the aid in the agricultural and forestry sectors:

(a) relates closely to the CAP;

(b) is consistent with one or several objectives referred to in Articles 5 and 6 of Regulation (EU) 2021/2115;

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

[42] Where there are strong buyers in the market, it is less likely that an aid beneficiary can increase prices vis-à-vis these strong buyers.

(c) is compatible with the rules on the common organisation of the markets in agricultural products;

(d) fits into and is consistent with the relevant CAP Strategic Plan, as regards rural development like measures financed exclusively from national funds, in order to ensure coherence with the rural development interventions co-financed by the EAFRD under CAP Strategic Plans.

(135) With respect to State aid which is co-financed under Regulation (EU) 2021/2115, or financed by the Union, the Commission will consider that the related positive effects have been established.

(136) Where it is demonstrated that aid has positive environmental and climate impact, the Commission will consider that the positive effects of such aid have been established. Article 11 of the Treaty provides that 'Environmental protection requirements must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development.' The Union's promotion of the aim of protecting the environment as set out in that Article 11 of the Treaty also takes into account the polluter pays principle. Therefore, particular attention should be given to environmental and climate issues in State aid notifications. All State aid notifications should contain an assessment on whether or not the aided activity is expected to have any environmental and/or climate impact. In cases where there is such an impact, State aid notifications should provide information demonstrating that the aid measure will not result in an infringement of the applicable Union legislation. For example, in the case of an aid scheme for investments which are intended to increase production, and which involve an increased use of scarce resources or an increase in pollution, it will be necessary to show that the scheme will not result in an infringement of the applicable Union legislation, including environmental protection legislation[43], and the standards of good agricultural and environmental condition (GAEC) under Regulation (EU) 2021/2115.

(137) In addition, the Commission may also take into account, where relevant, whether the aid brings about other positive effects. Where such other positive effects reflect those

[43] As regards the Union environmental legislation: Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1); Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7); Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1); where applicable Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30); Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJ L 372, 27.12.2006, p. 19); Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71); Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7); Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1); Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1); Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

embodied in Union policies, such as the European Green Deal[44], the Farm to Fork Strategy[45], the Strategy on adaptation to climate change[46], the Communication on Restoring Sustainable Carbon Cycles[47], the Forest Strategy[48] and the Biodiversity Strategy[49] then aid aligned with such Union policies can be presumed to have such wider positive effects.

(138) Where aid is granted under these Guidelines in favour of investments, the Commission will also pay attention to Article 3 of Regulation (EU) 2020/852 of the European Parliament and of the Council[50], including the "Do no significant harm" principle, or other comparable methodologies.

PART II. CATEGORIES OF AID

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

1.1. Rural development like measures

1.1.1. Aid for investment

(139) This Section applies to investment in agricultural holdings linked to the primary agricultural production, to investment in connection with the processing of agricultural products and the marketing of agricultural products.

(140) All aid for investment under Sections 1.1.1.1, 1.1.1.2, 1.1.1.3 and 1.1.1.4 of this Part must not be granted in contravention of any prohibition or restriction laid down in Regulation (EU) No 1308/2013, even where such prohibitions and restrictions only refer to the Union support provided for in that Regulation.

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[44] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions The European Green Deal (COM/2019/640 final).

[45] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system (COM/2020/381 final).

[46] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - An EU Strategy on adaptation to climate change (COM/2013/0216 final).

[47] Communication of the Commission of 15 December 2021on Restoring Sustainable Carbon Cycles. (COM(2021)800 final).

[48] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - New EU Forest Strategy for 2030 (COM/2021/572 final).

[49] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - EU Biodiversity Strategy for 2030 Bringing nature back into our lives (COM/2020/380 final).

[50] Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

1.1.1.1. Aid for investments in agricultural holdings linked to primary agricultural production

(141) The Commission will consider aid for investments in agricultural holdings linked to primary agricultural production compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, the general condition for investment aid set out in point (134) and the conditions set out in this Section.

(142) This Section applies to aid for investments in tangible assets and intangible assets on agricultural holdings linked to the primary agricultural production. The investment is carried out by one or more beneficiaries or concerns a tangible asset or intangible asset used by one or more beneficiaries.

(143) This Section also applies to investment in tangible assets and intangible assets linked to the production of biofuels or to the production of energy from renewable sources on holdings, which fulfils the following conditions:

(a) where the investment is made for the production of biofuels within the meaning of Directive (EU) 2018/2001 on agricultural holdings, renewable energy production facilities are eligible for aid only if their annual production capacity is no more than equivalent to the annual average fuel consumption of the agricultural holding; the produced biofuel should not be sold on the market;

(b) where the investment is made for the production of thermal energy and/or electricity from renewable sources on agricultural holdings, the renewable energy production facilities are eligible for aid only if the aim is to serve their own energy needs and their annual production capacity is no more than equivalent to the combined average annual energy consumption of thermal energy and electricity on the agricultural holding, including the farm household; regarding electricity, the selling of electricity is allowed into the grid as far as the annual average self-consumption limit is respected.

(144) Where more than one agricultural holding carry out the investment for the production of energy from renewable sources with the aim to serve their own energy needs or for the production of biofuels on holdings, the annual average consumption is equivalent to the sum of the annual average consumption of all beneficiaries.

(145) Member States must require compliance with minimum standards for energy efficiency for investments in renewable energy infrastructure that consume or produce energy, where such standards exist at national level.

(146) Investments in installations, the primary purpose of which is electricity production from biomass, are not eligible for aid unless a minimum percentage, of the heat energy produced, to be determined by the Member States, is utilised .

(147) Member States must establish thresholds for the maximum proportions of cereals and other starch rich crops, sugar and oil crops used for bioenergy production, including biofuels, for different types of installations in accordance with Article 26 of Directive (EU) 2018/2001. Aid to bioenergy projects must be limited to bioenergy meeting the applicable sustainability and greenhouse gas emissions saving criteria laid down in Union legislation including Article 29 of Directive (EU) 2018/2001.

(148) If the production capacity of the installation exceeds the average annual consumption of the beneficiary or beneficiaries as referred to in points (143) and (144), Member States must comply with the conditions laid down in the Guidelines on State aid for

climate, environmental protection and energy 2022 unless such aid is exempt from notification obligation.

(149) The investment must pursue at least one of the following objectives:

(a) improvement of the overall performance and sustainability of the agricultural holding, in particular through a reduction of production costs or the improvement and re-deployment of production;

(b) the improvement of the natural environment, hygiene or animal welfare standards;

(c) the creation and improvement of infrastructure related to the development, adaptation and modernisation of agriculture, including access to farm land, land consolidation and land improvement, the supply of sustainable energy, energy efficiency, supply and saving of water;

(d) the restoration of agricultural production potential damaged by natural disasters, exceptional occurrences or adverse climatic events which can be assimilated to a natural disaster, animal diseases and plant pests, protected animals and the prevention and risk mitigation of damage caused by those before-mentioned events and factors;

(e) contributing to climate change mitigation and adaptation, including by reducing greenhouse gas emissions and enhancing carbon sequestration, as well as promoting sustainable energy and energy efficiency;

(f) contributing to sustainable circular bioeconomy and fostering sustainable development and efficient management of natural resources such as water, soil and air, including by reducing chemical dependency;

(g) contributing to halting and reversing biodiversity loss, enhancing ecosystem services and preserving habitats and landscapes.

Eligible costs

(150) The aid covers the following eligible costs:

(a) the construction, acquisition, including leasing, or improvement of immovable property, including investments in passive in-house wiring or structured cabling for data networks and, if necessary the ancillary part of the passive network on the private property outside the building, with land purchased only being eligible to an extent not exceeding 10 % of the total eligible costs of the operation concerned; in exceptional and duly justified cases, a higher percentage may be permitted for operations concerning environmental conservation and carbon-rich soil preservation, or land purchased by young farmers through the use of financial instruments;

(b) the purchase or lease purchase of machinery and equipment up to the market value of the assets;

(c) general costs linked to the expenditure referred to in points (a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies remain eligible costs even where based on their results, no expenditure under points (a) and (b) is incurred;

(d) the acquisition, development or usage fees of computer software, cloud and similar solutions, and the acquisition of patents, licences, copyrights and trademarks;

(e) expenses for non-productive investments linked to the objectives referred to in point (149)(e), (f) and (g);

(f) in the case of investment aiming at the restoration of agricultural production potential damaged by natural disasters, exceptional occurrences or adverse climatic events which can be assimilated to a natural disaster, animal diseases or plant pests and protected animals, the eligible costs may include the costs incurred for restoring the production potential, including capitalised works, up to the level as it was at before the occurrence of those events; beneficiaries should, where appropriate, endeavour to include in the restoration, adaptation measures to climate change;

(g) in the case of investments aiming at the prevention of damage caused by natural disasters, exceptional occurrences, adverse climatic events which can be assimilated to a natural disaster, animal diseases and plant pests and by protected animals, the eligible costs may include the costs of specific prevention actions aiming at reducing the consequences of such probable events. In case of damage by adverse climatic events which can be assimilated to a natural disaster or by plant pests, beneficiaries should, where appropriate, endeavour to include in the restoration, adaptation measures to climate change, in order to minimise damage and losses produced by similar events in the future.

(151) Aid must not be granted in respect of the following:

(a) the purchase of agricultural production rights and payment entitlements;

(b) the purchase and planting of annual plants;

(c) the purchase of animals;

(d) investments to comply with national or Union standards in force;

(e) costs, other than those referred to in point (150), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges;

(f) working capital;

(g) wiring or cabling for data networks outside the private property.

(152) By way of derogation from point (151)(b), aid may be granted for the purchase and planting of annual plants carried out for the objective of point (149)(d) and for the purchase and planting of annual plants carried out for preserving plant varieties under threat of genetic erosion under the commitments referred to in point (211).

(153) By way of derogation from point (151)(c), aid may be granted for the following costs:

(a) purchase of animals carried out for the objective of point (149)(d);

(b) purchase of animals of endangered breeds as defined in Article 2(24) of Regulation (EU) 2016/1012 under the commitments referred to in point (208);

(c) purchase of animals protecting livestock against large predators.

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

(a) a river basin management plan, in accordance with the terms of Directive 2000/60/EC, has been notified to the Commission for the entire area in which the investment is to take place, as well as in any other areas whose environment may be affected by the investment; the measures taking effect under the river basin management plan in accordance with Article 11 of that

Directive and of relevance to the agricultural sector must have been specified in the relevant programme of measures;

(b) water metering enabling measurement of water use at the level of the supported investment is in place or must be put in place as part of the investment;

(c) an investment in an improvement to an existing irrigation installation or element of irrigation infrastructure is eligible only if:

(i) it is assessed ex ante as offering potential water savings reflecting the technical parameters of the existing installation or infrastructure;

(ii) if the investment affects bodies of ground- or surface water whose status has been identified as less than good in the relevant river basin management plan for reasons related to water quantity, or if state-of-the-art climate vulnerability and risk assessments determined that the affected water bodies in good status could lose their status for reasons related to water quantity caused by climate change impacts, an effective reduction in water use must be achieved contributing to the achievement and maintenance of good status of these water bodies, as laid down in Article 4(1) of Directive 2000/60/EC.

(iii) Member States must set percentages for potential water savings and effective reduction in water use as an eligibility condition, to ensure that:

1. the percentage of potential water savings must amount to at least 5 % when the technical parameters of the existing installation or infrastructure already ensure a high degree of efficiency, and to at least 25 % when the current degree of efficiency (prior to investment) is low and/or for investments that take place in areas where water savings are most needed to ensure the achievement of good water status (where not yet achieved) and avoid deterioration of status of water bodies;
2. the percentage of effective reduction in water use, at the level of the investment as a whole, must amount to at least 50 % of the potential water saving made possible by the investment in the existing irrigation installation or element of infrastructure.

The conditions listed in this point (c) should apply to an investment in an existing installation which affects only energy efficiency or to an investment in the creation of a reservoir or to an investment in the use of recycled water which does not affect a body of ground or surface water;

(d) support may be granted to investments in the use of reclaimed water as an alternative water supply only if the provision and use of such water is compliant with Regulation (EU) 2020/741 of the European Parliament and of the Council[51];

(e) an investment resulting in a net increase of the irrigated area affecting a given body of ground or surface water is eligible only if both of the following conditions are fulfilled:

[51] Regulation (EU) 2020/741 of the European Parliament and of the Council of 25 May 2020 on minimum requirements for water reuse (OJ L 177, 5.6.2020, p. 32).

(i) the status of the water body has not been identified as less than good in the relevant river basin management plan for reasons related to water quantity;
(ii) an environmental analysis shows that there will be no significant negative environmental impact from the investment. Such an environmental impact analysis must be either carried out or approved by the competent authority of the Member State and may also refer to groups of holdings.

(155) An investment in the creation or expansion of a reservoir for the purpose of irrigation is only eligible provided it does not lead to significant negative environmental impact.

Aid intensity

(156) The aid intensity must not exceed 65 % of the eligible costs.

(157) The aid intensity referred to in point (156) may be increased to a maximum of 80 % for the following investments:
(a) investments linked to one or more of the specific environmental- and climate-related objectives referred to in point (149) (e), (f) and (g) or to animal welfare;
(b) investments by young farmers;
(c) investments in the outermost regions or the smaller Aegean islands.

(158) The aid intensity referred to in point (156) may be increased to a maximum of 85 % for investments of small farmers within the meaning of Article 28 of Regulation (EU) 2021/2115.

(159) The aid intensity referred to in point (156) may be increased to a maximum of 100 % for the following investments:
(a) non-productive investments linked to one or more of the specific environmental- and climate-related objectives referred to in point (149)(e), (f) and (g);
(b) investments for the restoration of production potential referred to in point (149)(d) and investments related to prevention and risk mitigation of damage caused by natural disasters, exceptional occurrences, adverse climatic events which can be assimilated to a natural disaster, or protected animals.

(160) In case of irrigation, the aid intensity must not exceed:
(a) 80 % of the eligible costs for irrigation on-farm investments made under point (154)(c);
(b) 100 % of the eligible costs for investments in off-farm infrastructure in agriculture to be used for irrigation;
(c) 65 % of the eligible costs for other irrigation on-farm investments.

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

(161) The Commission will consider aid for investments in favour of the conservation of cultural and natural heritage located on the agricultural holding compatible with the internal market under Article 107(3), point (d), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, the general condition for investment aid set out in point (140) and with the conditions set out in this section.

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

Eligible costs

(163) The following costs intended for the conservation of cultural and natural heritage are eligible:
- (a) investment costs in tangible assets;
- (b) capitalised works.

Aid intensity

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

(165) The aid for capitalised works must be limited to EUR 10 000 per year.

1.1.1.3. Aid for investments concerning the relocation of farm buildings

(166) The Commission will consider aid for investments concerning the relocation of farm buildings compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, the general condition for investment aid set out in point (140) and with the conditions set out in this Section.

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

(168) The relocation of the farm building must pursue an objective of public interest. The public interest invoked to justify the granting of aid under this Section must be specified in the relevant provisions of the Member State concerned.

Aid intensities

(169) The following aid intensities apply:
- (a) where the relocation of farm building consists of the dismantling, removal and re-building of existing facilities the aid intensity may reach up to 100 % of the real costs incurred for such activities;
- (b) where, in addition to point (a), the relocation results in a modernisation of the facilities or in an increase in production capacity, the aid intensities for investments as referred to in points (156) - (159) apply in respect to the costs relating to the modernisation of the facilities or the increase of the production capacity. For the purposes of this point, the pure replacement of an existing building or facilities by a new up-to-date building or facilities without fundamentally changing the production or the technology involved is not be considered to be related to the modernisation;
- (c) where the relocation concerns activities close to rural settlements, with a view to improving the quality of life or increasing the environmental performance of the rural settlement and concerns small-scale infrastructures, the aid intensity may reach up to 100 % of the eligible costs.

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

(170) The Commission will consider aid for investments in connection with the processing of agricultural products and the marketing of agricultural products compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, the general condition for investment aid set out in point (140) and with the conditions set out in this Section.

(171) Aid for food and feed crops based biofuels should not be granted under this Section, in order to incentivise the shift towards the production of more advanced forms of biofuels, as foreseen by the Guidelines on State aid for climate, environmental protection and energy 2022.

(172) This Section applies to aid for investments in tangible assets and intangible assets in connection with the processing of agricultural products and the marketing of agricultural products as referred in point (32)48 and point (32)39.

(173) Member States may grant aid for investments in connection with the processing of agricultural products and the marketing of agricultural products if the aid fulfils all the conditions of one of the following:

(a) Commission Regulation (EU) No 651/2014[52];

(b) Guidelines on regional State aid;

(c) this Section.

Eligible costs

(174) The aid may cover the following eligible costs:

(a) the construction, acquisition, including leasing, or improvement of immoveable property, including investments in passive in-house wiring or structured cabling for data networks and, if necessary, the ancillary part of the passive network on the private property outside the building, with land purchased only being eligible to an extent not exceeding 10 % of total eligible costs of the operation concerned;

(b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;

(c) general costs linked to the expenditure referred to in points (a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;

(d) the acquisition development or usage fees of computer software, cloud and similar solutions, and the acquisition of patents, licences, copyrights and trademarks.

(175) The following costs are not eligible:

[52] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

(a) costs, other than those referred to in point (174) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges;
(b) working capital;
(c) wiring or cabling for data networks outside the private property;
(d) costs related to investments to comply with Union and national standards in force.

Aid intensity

(176) The aid intensity under these Guidelines must not exceed 65 %.
(177) The aid intensity may be increased to a maximum of 80 % for investments in the outermost regions or the smaller Aegean islands and for investments linked to one or more of the specific environmental- and climate-related objectives referred to in Article 73(4), point (a)(i), of Regulation (EU) 2021/2115.
(178) Individual aid exceeding the notification threshold referred to in point (34)(a) must be notified to the Commission in accordance with Article 108(3) of the Treaty.

1.1.2. Start-up aid for young farmers and start-up aid of agricultural activities

(179) The Commission will consider start-up aid compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.
(180) This Section applies to undertakings active in primary agricultural production.
(181) Aid under this Section may only be granted in favour of:
(a) the installation of young farmers;
(b) the start-up of agricultural activities.
(182) Start-up aid for young farmers is granted to young farmers as defined in point (32)68. Aid provided under this section must be limited to SMEs.
(183) The aid must be conditional on the submission of a business plan to the competent authority of the Member State concerned.

Aid amount

(184) The aid must be limited to EUR 100 000.

1.1.3. Start-up aid for producer groups and organisations in the agricultural sector

(185) The Commission takes a favourable view for start-up aid for producer groups and producer organisations as it creates an incentive for bringing together farmers. It will therefore consider start-up aid for producer groups and producer organisations compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.
(186) This Section applies to the whole agricultural sector[53].

[53] See definition of agricultural sector in point (32)9 .

(187) Only producer groups or organisations that have been officially recognised by the competent authority of the Member State concerned are eligible for aid.

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

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

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

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

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

Eligible costs

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

(194) Aid must not be granted to:

(a) production organisations, entities or bodies, such as companies or cooperatives, the objective of which is the management of one or more agricultural holdings and which are therefore in effect single producers;

(b) agricultural associations that undertake tasks such as mutual support and farm replacement and farm management services, in the members' holdings without being involved in the joint adaptation of supply to the market;

(c) producer groups, organisations or associations, the objectives of which are incompatible with Article 152(1), point (c), Article 152(3) and Article 156 of Regulation (EU) No 1308/2013.

(195) The aid must be paid as a flat rate aid in annual instalments for the first five years from the date on which the producer group or organisation was officially recognised by the competent authority of the Member State on the basis of its business plan. Member States must only pay the last instalment after having verified the correct implementation of the business plan.

(196) Aid which is granted to producer group or organisations to cover expenses which are not linked to start-up costs, such as investments or promotion activities, will be assessed in accordance with the rules governing such type of aids.

Aid intensity

(197) The aid must be limited to 10 % of the annual marketed production of the group or organisation with a maximum of EUR 100 000 per year. The aid must be degressive.

1.1.4. Aid for agri-environment-climate commitments

(198) The Commission will consider aid for agri-environment-climate commitments compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(199) This Section applies to aid to undertakings and groups of such undertakings active in the primary agricultural production which undertake, on a voluntary basis, to carry out operations consisting of one or more agri-environment-climate commitments.

(200) The measure must aim at the preservation as well as at the promotion of the necessary changes to agricultural practices that make a positive contribution to the environment and climate.

(201) The aid may cover only those voluntary commitments going beyond:

(a) the relevant statutory management requirements and GAEC standards established under Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115;

(b) the relevant minimum requirements for the use of fertiliser and plant protection products as well as other relevant mandatory requirements established by national and Union law;

(c) the conditions established for the maintenance of the agricultural area in accordance with Article 4(2), point (b) of Regulation (EU) 2021/2115.

(202) All such mandatory standards and requirements must be identified and described in the notification to the Commission.

(203) For commitments referred to under point (201)(b), where national law imposes new requirements which go beyond the corresponding minimum requirements laid down in Union law, aid may be granted for commitments contributing to compliance with those requirements for a maximum of 24 months from the date on which they become mandatory for the holding.

(204) Member States must ensure that the undertakings carrying out operations under this measure have access to the relevant knowledge and information required to implement such operations, and that appropriate training is made available for those who require it, as well as access to expertise in order to assist farmers who commit to change their production systems.

(205) Commitments under this measure must be undertaken for a period of five to seven years. However, where necessary in order to achieve or maintain the environmental benefits sought, Member States may determine a longer period for particular types of commitments, including by means of providing for their annual extension after the termination of the initial period[54]. For commitments for the conservation, sustainable use and development of genetic resources, for new commitments directly following the commitment performed in the initial period or in other duly justified cases, Member States may determine a shorter period of at least one year.

[54] For instance, in the case of sub-measures aiming at restoring and maintaining wetland habitats, aid could be granted for a period of more than seven years given the complexity of meeting these objectives.

(206) Aid for agri-environment-climate commitments to beneficiaries other than undertakings active in the agricultural sector may be granted under Chapter 3 of this Part.

(207) Commitments under the agri-environment-climate measure to extensify livestock farming must comply with at least the following conditions:

(a) the whole grazed area of the holding must be managed and maintained to avoid over- and under-grazing;

(b) livestock density must be defined taking account of all grazing livestock kept on the farm or, in the case of a commitment to limit nutrient leaching, all animals kept on the farm which are relevant to the commitment in question.

(208) Commitments under the agri-environment-climate measure to rear local breeds in danger of being lost to farming or to preserve plant genetic resources under threat of genetic erosion must require one of the following:

(a) to rear farm animals of local breeds, genetically adapted to one or more traditional production systems or environments in the country, in danger of being lost to farming;

(b) to preserve plant genetic resources naturally adapted to the local and regional conditions and under threat of genetic erosion.

(209) The following species of farm animals are eligible for aid: cattle, sheep, goats, equidae, pigs, birds, rabbits and bees.

(210) Local breeds will be considered as being in danger of being lost to farming if the following conditions are fulfilled and if those conditions are also described and included in the notification to the Commission:

(a) the number, at national level, of breeding females concerned is stated;

(b) that number and the endangered status of the listed breeds is certified by a duly recognised relevant scientific body;

(c) a duly recognised relevant technical body registers and keeps up-to-date the breeding book for the breed;

(d) the bodies concerned possess the necessary skills and knowledge to identify animals of the breeds in danger.

(211) Plant genetic resources will be considered as being under threat of genetic erosion on condition that sufficient evidence of genetic erosion, based upon scientific results or indicators for the reduction of landraces or primitive local varieties, their population diversity and, where relevant, for modifications in the prevailing agricultural practices at local level, is described and included in the notification to the Commission.

(212) Aid may be provided for the conservation and for the sustainable use and development of genetic resources in agriculture for operations not covered by the provisions under points (199) to (211).

(213) Aid under this section may cover collective schemes and result-based payments schemes, such as carbon farming schemes, to encourage farmers to deliver a significant enhancement of the quality of the environment at a larger scale or in a measurable way.

Eligible costs

(214) Aid, with the exception of aid for operations for the conservation of genetic resources as referred to in point (212), covers compensation to beneficiaries for all or

part of the additional costs and income foregone resulting from the commitments they made. The aid must be granted annually.

(215) In duly justified cases, such as operations concerning environmental conservation or commitments to renounce the commercial use of areas, aid may be granted as a one-off payment per unit, calculated on the basis of additional costs incurred and income foregone.

(216) Where necessary the aid may also cover transaction costs to a value of up to 20 % of the premium paid for the agri-environment-climate commitments. Where commitments are undertaken by groups of undertakings, the maximum level must be 30 %.

(217) However, if a Member State wants to compensate for transaction costs caused by entering into agri-environment-climate commitments, it must provide convincing proof of such costs, for example by presenting cost comparisons with undertakings not entering into such commitments. The Commission will therefore not authorise State aid for transaction costs for the continuation of commitments already entered into in the past, unless a Member State demonstrates that such costs continue to occur or that new transaction costs are being incurred.

(218) Where transaction costs are calculated on the basis of average costs and/or average farms, Member States should demonstrate that, in particular, large enterprises are not overcompensated. For the purpose of calculating compensation, Member States must take into account whether the transaction costs in question are incurred per undertaking or per hectare.

(219) No aid under this measure may be granted for commitments that are covered under the organic farming measure defined in Section 1.1.8 of this Part.

(220) Aid for the conservation of genetic resources in agriculture covers the costs for the following operations:

(a) targeted actions: actions promoting the in situ and ex situ conservation, characterisation, collection and utilisation of genetic resources in agriculture, including web-based inventories of genetic resources currently conserved in situ, including in situ/ on-farm conservation, and of ex situ collections and databases;

(b) concerted actions: actions promoting the exchange of information for the conservation, characterisation, collection and utilisation of genetic resources in Union agriculture, among competent organisations in the Member States;

(c) accompanying actions: information, dissemination and advisory actions involving non-governmental organisations and other relevant stakeholders, training courses and preparation of technical reports.

Aid intensity

(221) Aid must be limited to 100 % of the eligible costs.

(222) Aid must be paid per hectare. In duly justified cases, aid may be granted as a lump sum.

1.1.5. Aid for animal welfare commitments

(223) The Commission will consider aid for animal welfare commitments compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(224) This Section applies to aid to undertakings active in the primary agricultural production which undertake, on a voluntary basis, to carry out operations consisting of one or more animal welfare commitments.

(225) The aid covers only those commitments going beyond the relevant mandatory standards established pursuant to Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115 and other relevant mandatory requirements established by national and Union law.

(226) Where no relevant mandatory standards or requirements exist, commitments must go beyond established farming practice at national level.

(227) All mandatory standards, requirements and established farming practices must be identified and described in the notification to the Commission.

(228) Where national law imposes new requirements which go beyond the corresponding minimum requirements laid down in Union law, aid may be granted for commitments contributing to compliance with those requirements for a maximum of 24 months from the date on which they become mandatory for the holding.

(229) Animal welfare commitments eligible to receive aid must provide upgraded standards of production methods in one of the following areas:

(a) water, feed and animal care in accordance with the natural needs of animals;

(b) housing conditions that improve the comfort of animals and their freedom of movement, such as increased space allowances, flooring surfaces, natural light, microclimate control, as well as housing conditions such as free farrowing or group housing, depending on the natural needs of animals;

(c) conditions allowing for expression of natural behaviour, such as enrichment of living environment or late weaning;

(d) outdoor access and grazing;

(e) practices that increase animal robustness and longevity, including slower growing breeds;

(f) practices which avoid mutilation or castration of animals. In specific cases when mutilation or castration of animals is deemed necessary, anaesthetics, analgesia and anti-inflammatory medication or immunocastration must be used;

(g) sanitary measures, preventing non-transmissible diseases, that do not require the use of medical substances such as vaccines, insecticides or anti-parasitic drugs.

(230) The animal welfare commitments must be undertaken for a period of one to seven years. Where necessary in order to achieve or maintain certain animal welfare benefits, Member States may determine a longer period for particular types of commitments, including by means of providing for their annual extension after the termination of the initial period.

(231) The renewal of a contract can be also automatic, if its details are described in the contract. The mechanism of renewal of the animal welfare commitments must be set up by the Member States in accordance with their relevant national rules. Such mechanism must be communicated to the Commission as part of the notification of State aid pursuant to this Section. The renewal must always be subject to respect of conditions approved by the Commission for aid pursuant to this Section.

(232) Member States must ensure that the undertakings carrying out operations under this measure have access to the relevant knowledge and information required to

implement such operations, and that appropriate training is made available for those who require it, as well as access to expertise in order to assist farmers who commit to change their production systems.

Eligible costs

(233) The aid must be granted annually and may compensate undertakings active in primary agricultural production for all or part of the additional costs and income foregone resulting from the commitment made by them. In duly justified cases, Member States may grant support as a one-off payment per unit, calculated on the basis of additional costs incurred and income foregone.

(234) Where necessary, they may also cover transaction costs to the value up to 20 % of the premium paid for the animal welfare commitments. However, if a Member State wants to compensate for transaction costs caused by entering into animal welfare commitments, it must provide convincing proof of such costs, for example by presenting cost comparisons with undertakings not entering into such animal welfare commitments. The Commission will, therefore, not authorise State aid for transaction costs for the continuation of animal welfare commitments already entered into in the past, unless a Member State demonstrates that such costs continue to occur or that new transaction costs are being incurred.

(235) Where transaction costs are calculated on the basis of average costs and/or average farms, Member States should demonstrate that, in particular, large enterprises are not overcompensated. For the purpose of calculating compensation, Member States must take into account whether the transaction costs in question are incurred per undertaking or per hectare.

Aid intensity

(236) Aid must be limited to 100 % of the eligible costs.

(237) Aid must be paid per unit. In duly justified cases, Member States may grant support as a lump sum.

1.1.6. Aid for area-specific disadvantages resulting from certain mandatory requirements

(238) The Commission will consider aid for area-specific disadvantages resulting from certain mandatory requirements compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

(240) Aid to beneficiaries other than undertakings active in the agricultural sector may be granted in accordance with Chapter 3 of this Part.

Eligible costs

(241) Aid covers compensation to beneficiaries for additional costs and income foregone resulting from disadvantages in the areas concerned, related to the implementation of Directive 92/43/EEC, Directive 2009/147/EC and Directive 2000/60/EC.

(242) Where necessary, the aid may also cover transaction costs to a value of up to 20 % of the costs referred to in point (241).

(243) Where transaction costs are calculated on the basis of average costs and/or average farms, Member States should demonstrate that, in particular, large enterprises are not overcompensated. For the purpose of calculating compensation, Member States must take into account whether the transaction costs in question are incurred per undertaking or per hectare.

(244) Aid linked to Directive 92/43/EEC and Directive 2009/147/EC may only be granted in relation to disadvantages resulting from requirements that go beyond the relevant GAEC standards established under Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115 as well as the conditions established for the maintenance of the agricultural area in accordance with Article 4(2), point (b) of Regulation (EU) 2021/2115.

(245) Aid linked to Directive 2000/60/EC may only be granted in relation to disadvantages resulting from requirements that go beyond:

(a) the relevant statutory management requirements, with the exception of SMR 1 listed in Annex III to Regulation (EU) 2021/2115, and GAEC standards established under Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115; as well as

(b) the conditions established for the maintenance of the agricultural area determined by a Member State in its CAP Strategic Plan in accordance with Article 4(2), point (b), of Regulation (EU) 2021/2115

(246) The requirements referred to in points (244) and (245) must be identified and described in the notification to the Commission.

(247) The following areas are eligible for aid:

(a) Natura 2000 agricultural areas designated pursuant to the Directive 92/43/EEC and Directive 2009/147/EC;

(b) other delimited nature protection areas with environmental restrictions applicable to farming which contribute to the implementation of Article 10 of the Directive 92/43/EEC; these areas must not exceed 5 % of the designated Natura 2000 areas covered by the territorial scope of the relevant CAP Strategic Plan;

(c) agricultural areas included in river basin management plans according to Directive 2000/60/EC.

Aid intensity

(248) Aid must be limited to 100 % of the eligible costs.

(249) Aid must be paid annually per hectare.

1.1.7. Aid to areas facing natural or other area-specific constraints

(250) The Commission will consider aid in mountain areas and other areas facing natural or other specific constraints compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies Article 107(3), point (c), of the Treaty as laid down in Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

(252) Aid may be granted to active farmers which undertake to pursue their farming activity in areas designated pursuant to Article 32 of Regulation (EU) No 1305/2013. Member States may carry out a fine-tuning exercise according to the conditions provided for in Article 32(3), third subparagraph, of Regulation (EU) No 1305/2013.

Eligible costs

(253) The aid covers compensation for all or part of the additional costs and income foregone related to the natural or other area-specific constraints for agricultural production in the area concerned. Member States must demonstrate the constraints in question and provide proof that the amount of compensation to be paid does not go beyond income loss and additional costs resulting from those constraints.

(254) Additional costs and income foregone must be calculated in respect of natural or other area-specific constraints, in comparison to areas which are not affected by natural or other area-specific constraints.

(255) The aid will be granted annually per hectare of agricultural area.

Aid intensity

(256) Aid must be limited to 100 % of the eligible costs.

1.1.8. Aid for organic farming

(257) The Commission will consider aid for organic farming compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

(259) Aid may be granted to undertakings or groups of undertakings which undertake on a voluntarily basis to convert to or maintain organic farming practices and methods as defined in Regulation (EC) 2018/848 of the European Parliament and of the Council[55].

(260) Aid is granted only for commitments which go beyond the following standards and requirements that must be identified and described in the State aid notification to the Commission:

(a) the relevant statutory management requirements and GAEC standards established under Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115 ;

(b) the relevant minimum requirements for the use of fertiliser and plant protection products, animal welfare, and other relevant mandatory requirements established by national and Union law;

(c) the conditions established for the maintenance of the agricultural area in accordance with Article 4(2), point (b), of Regulation (EU) 2021/2115.

(261) For commitments referred to in point (260)(b), where national law imposes new requirements which go beyond the corresponding minimum requirements laid down

[55] Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

in Union law, aid may be granted for commitments contributing to compliance with those requirements for a maximum of 24 months from the date on which they become mandatory for the holding.

(262) Commitments must be carried out over an initial period of five to seven years. However, in order to achieve or maintain certain environmental benefits sought, Member States may determine a longer period, including by providing for an annual extension after the termination of the initial period. Where aid is granted for conversion to organic farming Member States may determine a shorter period of at least one year. With regard to new commitments concerning maintenance directly following the commitment performed in the initial period, Member States may determine a shorter period of at least one year.

(263) Member States must ensure that the undertakings carrying out operations under this measure have access to the relevant knowledge and information required to implement such operations, and that appropriate training is made available for those who require it, as well as access to expertise in order to assist farmers who commit to change their production systems.

Eligible costs

(264) Aid covers compensation to beneficiaries for part of or all additional costs and loss of income resulting from the commitments. Aid must be granted annually. In duly justified cases, Member States may grant aid as a one-off payment per unit.

(265) Where necessary, aid may also cover transaction costs with a maximum value of 20 % of the premium paid for the commitment. Where commitments are undertaken by groups of undertakings the maximum level is 30 %. This aid is granted on an annual basis.

(266) However, if a Member State wants to compensate for transaction costs caused by entering into organic farming commitments, it must provide convincing proof of such costs, for example by presenting cost comparisons with undertakings not entering into such commitments. The Commission will, therefore, not authorise State aid for transaction costs for the continuation of organic farming commitments already entered into in the past, unless a Member State demonstrates that such costs continue to occur or that new transaction costs are being incurred.

(267) Where transaction costs are calculated on the basis of average costs or average farms or both, Member States should demonstrate that in particular large enterprises are not overcompensated. For the purpose of calculating compensation, Member States should take into account whether the transaction costs in question are incurred per undertakings or per hectare.

(268) Aid may not be granted under this Section for commitments covered by the agri-environment-climate measure, or for costs covered by the Section on aid to encourage the participation of producers of agricultural products in quality systems.

(269) Aid for investments in primary production and the processing and marketing of organic products is subject to the provisions of the Sections 1.1.1.1 and 1.1.1.2 on aid for investment.

Aid intensity

(270) Aid must be limited to 100 % of the eligible costs.

(271) Aid must be paid per hectare. In duly justified cases, aid may be granted as a lump sum.

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

(272) The Commission will consider aid in favour of the participation of producers of agricultural products and groups thereof in quality schemes compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(273) This Section applies to producers of agricultural products.

Eligible costs

(274) The aid covers the following eligible costs in relation to quality schemes referred to in point (276):

(a) the costs for new participation in quality schemes, notably the costs incurred for entering a supported quality scheme and the annual contribution for participating in that quality scheme, including, where necessary, expenditure on checks required to verify compliance with the specifications of the quality scheme;

(b) the costs for compulsory control measures in relation to the quality schemes undertaken pursuant to Union or national legislation by or on behalf of the competent authority of the Member State;

(c) the costs for market research activities, product conception and design and for the preparation of applications for recognition of quality schemes.

(275) The aid referred to in point (274)(a) and (b) must not be granted towards the costs of controls undertaken by the beneficiaries themselves, or where Union legislation provides that the costs of control are to be borne by producers of agricultural products and group thereof, without specifying the actual level of charges.

(276) The quality schemes referred to in point (274)(a) must be the following:

(a) Union quality schemes;

(b) quality schemes, including farm certification schemes, for agricultural products recognised by the Member States as complying with the following criteria:

(i) the specificity of the final product produced under such quality schemes must be derived from a clear obligations to guarantee any of the following:

1. specific product characteristics;
2. specific farming or production method;
3. a quality of the final product that goes significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;

(ii) the quality scheme must be open to all producers;

(iii) the quality scheme must involve binding final product specifications and compliance with those specifications must be verified by public authorities or by an independent inspection body;

(iv) the quality scheme must be transparent and ensure complete traceability of agricultural products;

(c) voluntary agricultural product certification schemes recognised by the Member States as meeting the Union best practice guidelines referred to in Commission

Communication of 16 December 2010 entitled 'EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs' relating to agricultural products and foodstuffs[56].

(277) The aid must be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions.

(278) The aid referred to in point (274)(b) and (c) must be granted in form of subsidised services and must be paid to the body responsible for control measures, the research provider or the consultancy provider.

Aid intensity

(279) The aid referred to in point (274)(a) must be granted for a maximum period of seven years, must be paid annually and must be limited to 100 % of the eligible costs.

(280) The aid referred to in point (274)(b) and (c) may reach 100 % of the real costs incurred.

1.1.10. Aid for provision of technical support in the agricultural sector

(281) This Section covers aid for the provision of technical support in the agricultural sector, with the exception of aid for farm replacement services which can be granted only to undertakings active in the primary agricultural production.

(282) The provision of technical support may be undertaken by producer groups or other organisations, regardless of their size.

(283) The aid must be accessible to all those eligible in the area concerned, based on objectively defined conditions. Where the provision of technical support is undertaken by producer groups or organisations, membership of such groups or organisations must not be a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organization concerned must be limited to the costs of providing the service.

1.1.10.1. Aid for knowledge exchange and information actions

(284) The Commission will consider aid for knowledge exchange and information actions compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, with the general conditions for aid for technical support laid down in points (281) to (283) and with the conditions set out in this Section.

(285) Member States must ensure that actions supported under this Section be consistent with the description of the Agricultural Knowledge and Innovation System (AKIS) provided in the CAP Strategic Plans.

(286) The aid covers vocational training and skills acquisitions, including training courses, workshops and coaching, demonstration activities, information actions and promotion of innovation, which contribute to achieving one or more of the specific objectives set out in Article 6(1) of Regulation (EU) 2021/2115.

(287) The aid may also cover short-term farm management exchange and farm visits.

[56] OJ C 341, 16.12.2010, p. 5.

Eligible costs

(288) The aid covers the following eligible costs:

(a) the costs of organising vocational training, skills acquisition actions, demonstration activities or information actions;

(b) the costs of travel, accommodation and per diem expenses of the participants;

(c) the costs of the provision of replacement services during the absence of the participants;

(d) in the case of demonstration projects the following investment costs are also eligible:

(i) costs for the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of total eligible costs of the operation concerned; in exceptional and duly justified cases, a higher percentage may be permitted for operations concerning environmental conservation and carbon-rich soil preservation;

(ii) costs for the purchase or lease purchase of machinery and equipment up to the market value of the asset;

(iii) general costs linked to expenditure referred to in points (i) and (ii), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies remain eligible expenditure even where, based on their results, no expenditure under points (i) and (ii) is incurred;

(iv) costs for acquisition, development or usage fees of computer software, cloud and similar solutions, and the acquisitions of patents, licences, copyrights and trademarks;

(v) where duly justified, aid for small-scale demonstration projects may be granted for additional expenses and income foregone relating to the demonstration project.

(289) The costs referred to in point (288)(d) (i) to (iv) are eligible to the extent used for the demonstration project and for the duration period of the demonstration project. Only the depreciation costs corresponding to the life of the demonstration project, as calculated on the basis of generally accepted accounting principles are considered as eligible.

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

(291) Aid referred to in points (288)(a),(c) and (d)(i) to (iv) must be provided in the form of subsidised services. Aid for the costs of the provision of replacement services referred to in point (288)(c) may, alternatively, be paid directly to the provider of the replacement services. Aid referred to in point (288)(d)(v) must be paid directly to the beneficiaries. Aid for small-scale demonstration projects under point (288)(d)(i) to (iv), may be paid directly to the beneficiaries.

Aid intensity

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

(293) In the case of eligible costs referred to in point (288)(d) the maximum aid amount must be limited to EUR 100 000 over 3 fiscal years.

1.1.10.2. Aid for advisory services

(294) The Commission will consider aid for the provision of advisory services compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, with the general conditions for aid for technical support and with the conditions set out in this Section.

(295) Member States must ensure that actions supported under this Section be consistent with the description of AKIS provided in the CAP Strategic Plans.

(296) The advice must be linked to at least one of the specific objectives in accordance with Article 6 of Regulation (EU) 2021/2115 and must cover as a minimum one of the following elements:

(a) obligations deriving from the statutory management requirements and GAEC standards established under Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115;

(b) where applicable, the agricultural practices beneficial for the climate and the environment as referred to in Article 31 of Regulation (EU) 2021/2115 and the maintenance of the agricultural area referred to in Article 4(2), point (b), of Regulation (EU) 2021/2115;

(c) the requirements laid down by Member States for implementing Directive 2000/60/EC, Directive 92/43/EEC, Directive 2009/147/EC, Directive 2008/50/EC of the European Parliament and of the Council[57], Directive (EU) 2016/2284 of the European Parliament and of the Council[58], Regulation (EU) 2016/2031, Regulation (EU) 2016/429 of the European Parliament and of the Council[59], Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council[60] and Directive 2009/128/EC ;

(d) farm practices preventing the development of antimicrobial resistance as set out in the Communication 'A European One Health Action Plan against Antimicrobial Resistance'[61];

(e) risk prevention and management;

(f) innovation support;

(g) digital technologies in agriculture as referred to in Article 114, point (b), of Regulation (EU) 2021/2115;

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[57] Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

[58] Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1).

[59] Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1).

[60] Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

[61] Communication from the Commission, A European One Health Action Plan against Antimicrobial Resistance (AMR)) (COM(2017) 339 final).

(h) sustainable management of nutrients, including at the latest as from 2024 use of the Farm Sustainability Tool for Nutrients referred to in Article 15(4) of Regulation (EU) 2021/2115;

(i) conditions of employment and employer obligations as well as occupational health and safety and social support in agricultural communities;

(j) sustainable production of feed, evaluation of feed in terms of nutrient content and feed values, documentation, planning and control of the feeding of farm animals based on needs.

(297) The aid must be granted in the form of subsidised services.

(298) The bodies selected to provide the advisory service must have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise on.

(299) Member States must ensure that the advice is impartial and that advisory service providers have no conflict of interest.

(300) In duly justified and appropriate cases, the advice may be partly provided in group, while taking into account the situation of the individual user of advisory services.

Aid amount

(301) The aid intensity must be limited to 100 % of the eligible costs provided that the aid does not exceed, within any three-year period, the following amounts:

(a) EUR 25 000 per undertaking active in the primary agricultural production;

(b) EUR 200 000 per undertaking active in the processing of agricultural products and their marketing.

1.1.10.3. Aid for farm replacement services

(302) The Commission will consider aid for farm replacement services compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, with the general conditions for aid for technical support and with the conditions set out in this Section.

(303) The aid must be granted in the form of subsidised services.

Eligible costs

(304) Aid covers the real costs incurred for the replacement of a farmer, a natural person who is a member of farm household, or a farm worker, during their absence from work due to illness, including illness of their child or serious illness of a cohabitating person, which requires constant care, holidays, maternity and parental leave, mandatory military service or in case of death.

(305) The total duration of the replacement should be limited to three months per year per beneficiary, with the exception of replacement for maternity and parental leave and replacement during mandatory military service. With regard to maternity and parental leave, the duration of the replacement should be limited to six months in each of those cases. However, in duly justified cases the Commission may authorize a prolongation of the three months and six months period. With regard to mandatory military service, the duration of the replacement should be limited to the duration of the service.

Aid intensity

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

1.1.11. Aid for cooperation in the agricultural sector

(307) The Commission will consider aid for cooperation in the agricultural sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(308) This Section applies to the whole agricultural sector as defined in point (32) 9.

(309) Aid under this Section must not be granted for cooperation solely involving research bodies.

(310) Aid may only be granted to promote cooperation that contributes to achieving one or more of the objectives set out in Article 6 of Regulation (EU) 2021/2115.

(311) Aid should be granted in order to promote forms of cooperation involving at least two actors irrespective of whether they are active in the agricultural sector, but subject to the cooperation benefitting mainly the agricultural sector, and in particular:

(a) cooperation among different undertakings in the agricultural sector, food chain and other actors active in the agricultural sector that contribute to achieving the objectives and priorities of rural development policy, including producer groups, cooperatives and inter-branch organisation;

(b) the creation of clusters and networks;

(c) farm succession, in particular for generational renewal at farm level (aid may be granted only to farmers who have, or will have by the end of the operation reached the retirement age, determined by the Member State concerned in accordance with its national legislation).

(312) The aid may be granted for cooperation relating, in particular, to the following activities:

(a) pilot projects;

(b) the development of new products, practices, processes and technologies in the agricultural sector and food sector only as far as agricultural products are concerned;

(c) cooperation among small operators in the agricultural sector in organizing joint work processes and sharing facilities and resources;

(d) horizontal and vertical cooperation among supply chain actors for the establishment and development of short supply chains and local markets;

(e) promotion activities in a local context relating to the development of short supply chain and local markets;

(f) collective action undertaken with a view to mitigating or adapting to climate change;

(g) joint approaches to environmental projects and ongoing environmental practices including efficient water management, the use of renewable energy[62] and the preservation of agricultural landscapes;
(h) horizontal and vertical cooperation among supply chain actors in the sustainable provision of biomass for use in food production if the result is an agricultural product and energy production for own consumption;
(i) implementation, in particular by groups of public and private partners other than those defined in Article 31(2), point (b), of Regulation (EU) 2021/1060, of local development strategies other than those defined in Article 32 of Regulation (EU) 2021/1060;
(j) other forms of cooperation.

(313) Aid may be granted only to new forms of cooperation, including existing ones if starting a new activity.

(314) Aid for the establishment and development of short supply chains, as referred to in point (312)(d) and (e) must cover only supply chains involving no more than one intermediary between farmer and consumer.

(315) Operations to be implemented must comply with the relevant rules and requirements, as specified in the relevant Section of these Guidelines.

Eligible costs

(316) Aid covers the following eligible costs in so far as they concern agricultural activities:
(a) the costs for studies of the area concerned, of feasibility studies, and of drawing up a business plan or local development strategy other than the one referred to in Article 32 of Regulation (EU) 2021/1060;
(b) the running costs of cooperation, such as the salary of a 'coordinator';
(c) the costs of operations to be implemented;
(d) the costs for promotion activities.

(317) Aid must be limited to a maximum period of seven years. In duly justified cases, aid may be granted for a longer time period with regard to activities referred to in point (312)(i) and collective environment and climate actions in order to achieve the specific environmental- and climate-related objectives set out in Article 6(1), points (d), (e) and (f), of Regulation (EU) 2021/2115.

Aid intensity

(318) The aid may reach up to 100 % of the eligible costs.

(319) In case of operations referred to in point (315)(c) which consist of investments, aid must be limited to the maximum aid intensity of investment aid, as specified in the relevant Section on investment aid.

1.2. Risk and crisis management

[62] This applies to cooperation relating to the production of energy from renewable sources or the production of biofuels on holdings, provided that the conditions laid down in Part II, Section 1.1.1.1 are complied with.

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

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

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

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

(322) The Commission will consider aid to make good the damage caused by natural disasters or exceptional occurrences compatible with the internal market under Article 107(2), point (b), of the Treaty if it complies with the conditions set out in this Section.

(323) This Section applies to the agricultural sector as defined in point (32)(2) .

(324) The Commission has consistently held that, since they constitute exceptions to the general prohibition of State aid within the internal market laid down in Article 107(1) of the Treaty, the notions of ‘natural disaster’ and ‘exceptional occurrence’ referred to in Article 107(2), point (b), of the Treaty must be interpreted restrictively. This has been confirmed by the Court of Justice of the European Union[63].

(325) To date, the Commission has accepted that earthquakes, avalanches, landslides and floods may constitute natural disasters. In addition, the Commission takes account of the State aid modernization initiative which allows to block exempt also the following categories of natural disaster events: tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin. Exceptional occurrences which have been accepted in the past by the Commission include war, internal disturbances or strikes, and, with certain reservations and depending on their extent, major nuclear or industrial accidents and fires which result in widespread loss[64]. The Commission will continue to evaluate plans to grant State aid in accordance with Article 107(2), point

[63] See judgment of 11 November 2004, *Spain* v *Commission*, C-73/03, EU:C:2004:711, paragraph 37, and judgment of 23 February 2006, *Atzeni and others*, joined cases C-346/03 and C-529/03, paragraph 79.

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

(b), of the Treaty on a case-by-case basis, having regard to its previous practice in this field.

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

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

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

(327) Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to in point (326)(a) is deemed granted.

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

(329) The aid scheme must be established within three years from the date of the occurrence of the event, and the aid must be paid out within four years of that date. With regard to a specific natural disaster or exceptional occurrence, the Commission will authorise separately notified aid that derogates from this rule in duly justified cases, for example due to the nature and/or extent of the event or delayed or continuing nature of the damage.

(330) In order to facilitate rapid crisis management, the Commission will authorize ex-ante framework aid schemes to compensate for the damage caused by earthquakes, avalanches, landslides and floods as well as by tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin, provided that the conditions under which aid can be granted in such cases are clearly defined[65]. In the case of ex-ante schemes Member States must comply with the reporting obligation set out in point (646).

(331) Aid granted to compensate for the damage caused by other types of natural disasters not mentioned in point (325) and for damage caused by exceptional occurrences, must be individually notified to the Commission.

Eligible costs

(332) The eligible costs are the amount of the damage incurred as a direct consequence of the natural disaster or exceptional occurrence, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking.

(333) The damage may include the following:

(a) material damage to assets such as buildings, equipment, machinery, stocks and means of production;

(b) loss of income resulting from the full or partial destruction of the agricultural production and the means of the agricultural production.

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

(335) The calculation of the material damage must be based on the repair cost or economic value of the affected asset before the natural disaster or the exceptional occurrence. It must not exceed the repair cost or the decrease in fair market value caused by the

[65] Commission decisions on State aid in cases N 274b/2010, N 274a/2010, SA.33605, SA.33628, SA.36787.

natural disaster or by the exceptional occurrence, that is to say the difference between the asset's value immediately before and immediately after the natural disaster or the exceptional occurrence.

(336) The loss of income must be calculated by subtracting:

(a) the result of multiplying the quantity of the agricultural products produced in the year of the natural disaster or the exceptional occurrence, or in each following year affected by the full or partial destruction of the means of production, by the average selling price obtained during that year

from

(b) the result of multiplying the average annual quantity of agricultural products produced in the three-year period preceding the natural disaster or the exceptional occurrence or a three-year average based on the five-year period preceding the natural disaster or the exceptional occurrence, excluding the highest and lowest entry by the average selling price obtained.

(337) That amount may be increased by other costs incurred by the beneficiary due to the natural disaster or the exceptional occurrence and it must be reduced by any costs not incurred because of the natural disaster or the exceptional occurrence which would otherwise have been incurred by the beneficiary.

(338) Indexes may be used in order to calculate the annual agricultural production of the beneficiary provided that the calculation method used enables to determine the real loss of an individual beneficiary in a given year.

(339) The Commission will accept other methods for the calculation of damage provided it is satisfied that those methods are representative, not based on abnormally high yields and do not result in the overcompensation of any beneficiary. The measurement of the extent of the damage may be tailored to the specific characteristics of each type of product using one of the following:

(a) biological indexes (quantity of biomass loss) or equivalent yield loss indexes established at farm, local, regional or national level;

(b) weather indexes (including quantity of rainfall and temperature) established at local, regional or national level.

Aid intensity

(340) The aid and any other payments received to compensate for the damage, including payments under insurance policies, must be limited to 100 % of the eligible costs.

1.2.1.2.Aid to compensate for damage caused by adverse climatic event which can be assimilated to a natural disaster

(341) The Commission will consider aid to compensate for the damage caused by an adverse climatic event which can be assimilated to a natural disaster compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(342) This Section applies to aid granted to compensate for damage caused by an adverse climatic event which can be assimilated to a natural disaster as defined in point (32)33. It applies only to undertakings active in the primary agricultural production.

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

(a) the competent authority of the Member State concerned has formally recognized the character of the event as an adverse climatic event which can be assimilated to a natural disaster;

(b) there is a direct causal link between the adverse climatic event which can be assimilated to a natural disaster and the damage suffered by the undertaking.

(344) Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to in point (343)(a) is deemed to be granted.

(345) In the case of ex-ante schemes, Member States must comply with the reporting obligation set out in point (646).

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

(347) Aid schemes must be established within three years from the date of the occurrence of the adverse climatic event which can be assimilated to a natural disaster. The aid must be paid out within four years from that date.

Eligible costs

(348) The eligible costs are the damage incurred as a direct consequence of the adverse climatic event which can be assimilated to a natural disaster, as assessed either by a public authority, by an independent expert recognised by the granting authority or by an insurance undertaking.

(349) The damage includes the following:

(a) the material damage to assets such as farm buildings, equipment and machinery, stocks and means of production;

(b) the loss of income from the full or partial destruction of the agricultural production and the means of production.

(350) The calculation of the damage incurred due to the adverse climatic event which can be assimilated to a natural disaster must be made at the level of the individual beneficiary.

(351) The material damage to assets caused by the adverse climatic event which can be assimilated to a natural disaster must be calculated on the basis of the repair cost or economic value of the affected asset before the adverse climatic event that can be assimilated to a natural disaster. It must not exceed the repair cost or the decrease in fair market value caused by the adverse climatic event which can be assimilated to a natural disaster, that is to say the difference between the asset's value immediately before and immediately after the adverse climatic event which can be assimilated to a natural disaster.

(352) Where the loss of the beneficiary's income referred to in point (349)(b) is calculated on the basis of crop or livestock level, only the material damage related to that crop or livestock should be taken into account.

(353) The loss of income must be calculated either at annual farm production level or at crop or livestock level by subtracting:

(a) the result of multiplying the quantity of the agricultural products produced in the year of the adverse climatic event which can be assimilated to a natural disaster,

or each following year affected by the full or partial destruction of the means of production, by the average selling price obtained during that year
from

(b) the result of multiplying the average annual quantity of agricultural products produced in the three-year period preceding the adverse climatic event which can be assimilated to a natural disaster, or a three year average based on the five-year period preceding the adverse climatic event which can be assimilated to a natural disaster, excluding the highest and lowest entry by the average selling price obtained.

(354) That amount may be increased by other costs incurred by the beneficiary due to the adverse climatic event which can be assimilated to a natural disaster. That amount must be reduced by any costs not incurred because of the adverse climatic event which can be assimilated to a natural disaster, that would otherwise have been incurred by the beneficiary.

(355) Indexes may be used in order to calculate the annual agricultural production of the beneficiary provided that the calculation method used enables to determine the real loss of an individual beneficiary in a given year.

(356) The Commission will accept other methods for the calculation of damage provided that it is satisfied that those methods are representative, not based on abnormally high yields and do not result in overcompensation of any beneficiary. The measurement of the extent of the damage may be tailored to the specific characteristics of each type of product using one of the following:

(a) biological indexes (quantity of biomass loss) or equivalent yield loss indexes established at farm, local, regional or national level;

(b) weather indexes (including quantity of rainfall and temperature) established at local, regional or national level.

Aid intensity

(357) The aid and any other payments received to compensate for the damage, including payments under other national or Union measures or insurance policies for the damage receiving aid, must be limited to 80 % of the eligible costs. The aid intensity may be increased to 90 % in areas facing natural or other area-specific constraints.

(358) The amount of aid granted under this Section must be reduced by at least 50 % if it is given to beneficiaries who have not taken out insurance or have not paid financial contributions to mutual funds accredited in the Member State covering at least 50 % of their average annual production or production-related income and the statistically most frequent climatic risks in the Member State or region concerned for which insurance coverage is provided. The reduction will not apply only if a Member State can convincingly show that, despite all reasonable efforts, affordable insurance covering the statistically most frequent climatic risks in the Member State or region concerned was not available at the time the damage occurred.

1.2.1.3. Aid for the costs of the prevention, control and eradication of animal diseases, plant pests and infestation by invasive alien species of Union concern and invasive alien species of Member State concern and aid to make good the damage caused by animal diseases, plant pests and invasive alien species of Union concern and invasive alien species of Member State concern

(359) The Commission will consider aid for the costs of the prevention, control and eradication of animal diseases, plant pests and infestation by invasive alien species of Union concern or and invasive alien species of Member State concern and aid to make good the damage caused by those animal diseases, plant pests and invasive alien species of Union concern and invasive alien species of Member State concern compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(360) This Section applies to aid granted to undertakings active in the primary agricultural production.

(361) Aid may only be paid where all the following conditions are met:

(a) in relation to animal diseases, plant pests and infestation by invasive alien species of Union concern and invasive alien species of Member State concern for which Union or national rules exist, whether laid down by law, regulation or administrative action;

(b) as part of one of the following:

(i) a public programme at Union, national or regional level for the prevention, control or eradication of the animal disease or the plant pest concerned;

(ii) emergency measures imposed by the competent authority of the Member State;

(iii) measures to eradicate or contain a plant pest implemented in accordance with Article 17 and Article 28(1) and (2) of Regulation (EU) 2016/2031;

(iv) measures to eradicate or contain an invasive alien species of Union concern or of Member State concern implemented in accordance with Regulation (EU) No 1143/2014.

(362) The programmes and measures referred to in point (361)(b) must contain a description of the prevention, control and eradication measures concerned.

(363) The aid must not relate to measures in respect of which Union legislation provides that the cost of such measures is to be borne by the beneficiary, unless the cost of such aid measures is entirely offset by compulsory charges on the beneficiaries.

(364) The aid must be paid directly to the undertaking concerned or to a producer group or organisation of which that undertaking is a member. Where the aid is paid to a producer group or organisation, the amount of aid must not exceed the amount of aid to which that undertaking is eligible.

(365) No individual aid may be granted where it is established that the disease or the infestation with the plant pest or invasive alien species of Union concern or of Member State concern was caused deliberately or by the negligence of the beneficiary.

(366) As regards animal diseases, the aid may be granted in respect of diseases referred to in the list of animal diseases of Article 5(1) of Regulation (EU) 2016/429, in Annex

III to Regulation (EU) 2021/690 of the European Parliament and of the Council[66], or in the list of animal diseases of the Terrestrial Animal Health Code established by the World Organisation for Animal Health.

(367) Aid may also be granted in respect of emerging diseases that meet the criteria laid down in Article 6(2) of Regulation (EU) 2016/429.

(368) Aid schemes must be introduced within three years from the date of the occurrence of the cost or damage caused by the animal disease, plant pest or invasive alien species of Union concern or of Member State concern. Aid must be paid out within four years from that date. These conditions do not apply to the costs in point (370).

(369) In the case of ex-ante schemes Member States must comply with the reporting obligation set out in point (646).

Eligible costs

(370) In the case of prevention measures, the aid may cover the following eligible costs:

(a) costs for biosecurity measures, including for the prevention of invasive alien species of Union concern or of Member State concern

(b) costs for health checks;

(c) costs for analyses including in vitro diagnostics;

(d) costs for tests and other screening measures including TSE and BSE tests;

(e) costs for the purchase, storage, administration and distribution of vaccines, medicines, substances for the treatment of animals and plant protection products;

(f) costs for the preventive slaughtering or culling of animals or the destruction of animal products and plants;

(g) costs of cleaning, disinfection or disinfestation of the holding and equipment based on the epidemiology and characteristics of the pathogen.

(371) In the case of control and eradication measures, the aid may cover the following eligible costs:

(a) costs for tests and other screening measures in the case of animal diseases, including TSE and BSE tests;

(b) costs for the purchase, storage, administration and distribution of vaccines, medicines, substances for the treatment of animals and plant protection products;

(c) costs for the slaughter or culling and destruction of animals and the destruction of products linked to them or destruction of plants, including those that die or are destroyed as a result of vaccination or other measures ordered by the competent authority of the Member State and the cleaning and disinfection of the holding and equipment.

(d) costs for the purchase, storage, administration and distribution of plant protection products to address plant invasive alien species of Union concern or of Member State concern;

[66] Regulation (EU) 2021/690 of the European Parliament and of the Council of 28 April 2021 establishing a programme for the internal market, competitiveness of enterprises, including small and medium-sized enterprises, the area of plants, animals, food and feed, and European statistics (Single Market Programme) and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014 and (EU) No 652/2014 (OJ L 153, 3.5.2021, p. 1).

(e) costs for the purchase, storage deployment and distribution of traps or other equipment to address animal invasive alien species of Union concern or of Member State concern.

(372) Aid in relation to eligible costs referred to in points (370) and (371) must be granted in the form of subsidized service and must be paid to the provider of the prevention, control and eradication measures with the exception of the eligible costs referred to in points (370)(e) and (371)(b) and the eligible costs referred to in points (370)(f) and (371)(c) in the case of plant pests and for the cleaning and disinfection of the holding and equipment.

(373) In the case of aid to make good the damage caused by animal diseases, plant pests or invasive alien species of Union concern or invasive alien species of Member States concern, the compensation must be calculated only in relation to the following:

(a) the market value of the animals slaughtered or culled or that have died or the products linked to them, or the plants destroyed:
(i) as a result of the animal disease, plant pest or infestation by invasive alien species of Union concern or invasive alien species of Member States concern;
(ii) as part of a public programme or measure referred to in point (361)(b);

(b) the loss of income due to quarantine obligations and difficulties in restocking or replanting and obligatory crop-rotation imposed as part of a public programme or measure referred to in point (361)(b).

(374) That amount must be reduced by:

(a) any costs not directly incurred due to the animal disease, plant pest or invasive alien species of Union concern or of Member State concern, that would otherwise have been incurred by the beneficiary;

(b) any revenue made by the sale of products linked to the animals slaughtered or culled and to the plants destroyed for preventive or eradication purposes on the order of the competent authority of the Member State.

(375) The market value referred to in point (373)(a) must be established on the basis of the value of the animals, products and plants immediately before any suspicion of the animal disease or plant pest or infestation by invasive alien species of Union concern or invasive alien species of Member States concern arose or was confirmed.

(376) The aid referred to in point (373) must be limited to the costs and damage caused by animal diseases, plant pests and infestation by invasive alien species of Union concern or invasive alien species of Member States concern for which the competent authority of the Member State has done one of the following:

(a) it has formally recognised an outbreak, in the case of an animal disease;

(b) it has formally acknowledged their presence, in the case of plant pests or invasive alien species of Union concern or invasive alien species of Member States concern.

(377) In exceptional and duly justified cases, the Commission may accept the costs incurred in carrying out necessary measures other than those referred to in this Section.

Aid intensity

(378) The aid and any other payments received by the beneficiary, including payments under other national or Union measures or insurance policies or mutual funds for the same eligible costs, must be limited to 100 % of the eligible costs.

1.2.1.4. Aid for fallen stock

(379) The Commission will consider aid for fallen stock compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

Aid intensity

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

(a) aid at a rate of up to 100 % of the costs for the removal of fallen stock, and 75 % of the costs for the destruction of such fallen stock; aid towards the costs of premiums for insurance covering the costs of the removal and destruction of fallen stock may be granted in accordance with the provisions of Section 1.2.1.6 of Part II;

(b) aid at a rate of up to 100 % of the costs for the removal and destruction of fallen stock where the aid is financed through fees or through compulsory contributions destined for the financing of the removal and destruction of such fallen stock, provided that such fees or contributions are limited to and directly imposed on the meat sector;

(c) aid at a rate of 100 % of the costs for the removal and destruction of fallen stock where there is an obligation to perform TSE tests on the fallen stock concerned or in the case of an outbreak of an animal disease referred to in point (366).

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

(383) The aid must be provided in the form of subsidised services, except where the livestock breeder who is the beneficiary of the aid acts also as service provider.

(384) In order to facilitate the administration of the aid, the aid may be paid to economic operators or bodies that meet all the following conditions:

(a) they are active downstream from the undertakings active in the livestock sector;

(b) they provide services linked to the removal and destruction of fallen stock.

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

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

(386) Damage to equipment, infrastructure, animals and plants caused by protected animals has been a growing problem. The success of Union conservation policy depends partly on the effective management of conflicts between protected animals and farmers. As a consequence, and in accordance with the principle of proportionality, the Commission will consider aid to compensate for the damage caused by protected

animals compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

(388) In order to mitigate the risk of distortions of competition and to provide an incentive for minimising risk, the beneficiaries must provide a minimum contribution. This contribution must take the form of preventive measures, such as safety fences where possible or livestock guarding dogs, which are proportionate to the risk of damage caused by protected animals in the area concerned. This point should not apply to the first attack of a protected animal in a given area. Moreover, if preventive measures are not reasonably possible, the Member State concerned must demonstrate the impossibility to take such preventive measures in order for the aid to be considered compatible.

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

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

(391) The aid scheme must be established within a period of three years from the date of the occurrence of the damaging event. The aid must be paid out within four years from that date.

Eligible costs

(392) The eligible costs are the costs incurred as a direct consequence of the event that caused the damage, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking.

(393) The eligible costs may include the following:

(a) damage for animals killed or plants destroyed: the eligible costs are based on the market value of the animal killed or of the plants destroyed by the protected animals;

(b) indirect costs: veterinary costs resulting from the treatment of wounded animals and labour costs related to the search for missing animals, loss of income due to lower production yield linked to attacks by protected animals;

(c) material damage to the following assets: farm equipment, machinery and farm buildings and stocks; the calculation of the material damage must be based on the repair cost or economic value of the affected asset before the event that caused the damage; it must not exceed the repair cost or the decrease in fair market value caused by the event causing the damage, that is to say the difference between the asset's value immediately before and immediately after the event.

(394) The aid amount must be reduced by any costs not incurred because of the event causing the damage, that would otherwise have been incurred by the beneficiary and by any revenue made by the sale of the products linked to the animals killed or plants destroyed by the protected animals.

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

(396) The loss of income must be calculated either at annual farm production level or at livestock or crop level by subtracting:

(a) the result of multiplying the quantity of the agricultural products produced in the year of the damaging event, by the average selling price obtained during that year; from

(b) the result of multiplying the average annual quantity of agricultural products produced in the three-year period preceding the damaging event, or a three-year average based on the five-year period preceding the damaging event, excluding the highest and lowest entry by the average selling price obtained.

(397) Investments related to measures to prevent damage by protected animals may be supported under the conditions of Section 1.1.1.1 of this Part on aid for investments in agricultural holdings.

Aid intensity

(398) Compensation may be granted up to 100 % of the eligible costs.

(399) Compensation for indirect costs referred to in point (393)(b) must be proportionate to the direct costs referred to in point (393)(a) and must not exceed 80 % of the total indirect eligible costs.

(400) The aid and any other payments received to compensate for the damage, including payments under other national or Union measures or insurance policies for the damage for which the aid is granted, must be limited to 100 % of the eligible costs.

1.2.1.6. Aid for the payment of insurance premiums

(401) In many instances, insurance is a most helpful tool for good risk and crisis management. Therefore, and in view of the often reduced financing possibilities of farmers, the Commission takes a positive view as regards State aid for insurance premiums where the insurance concerns primary agricultural production.

(402) The Commission will consider aid in favour of active farmers for the payment of insurance premiums compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

(404) Aid can be granted only for covering losses which exceed a threshold of at least 20 % of the average annual production or income 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 entry.

(405) The aid must not constitute a barrier to the operation of the internal market for insurance services. In particular, the aid must not be limited to insurance provided by a single insurance company or group of companies nor be made conditional on the insurance contract being taken out with a company established in the Member State concerned.

(406) Reinsurance schemes will be examined on a case-by-case basis.

Eligible costs

(407) The eligible costs are the costs of insurance premiums for insurance to cover the damage caused by natural disasters or exceptional occurrences, adverse climatic events which can be assimilated to a natural disaster, animal diseases, plant pests and invasive alien species of Union concern or of Member State concern, the removal and destruction of fallen stock and damage caused by protected animals, as referred to in Sections 1.2.1.1, 1.2.1.2, 1.2.1.3, 1.2.1.4 and 1.2.1.5, and by other adverse climatic events or damage caused by environmental incidents.

(408) The insurance may compensate only the cost of making good the damage referred to in point (407) and may not require or specify the type or quantity of future production.

(409) In respect of aid for insurance premiums for insurance against losses caused by environmental incidents, the occurrence of an environmental incident must be formally recognised as such by the competent authority of the Member State concerned.

(410) Member States may, where appropriate, establish in advance criteria on the basis of which that formal recognition is deemed to be granted.

(411) Indexes referred to in points (338) and (339) may be used in order to calculate the annual agricultural production of the beneficiary and the extent of the loss.

Aid intensity

(412) The gross aid intensity must not exceed 70 % of the cost of the insurance premium. In respect of aid for the removal and destruction of fallen stock, the aid intensity must not exceed 100 % of the cost of the insurance premium as regards insurance premiums for the removal of fallen stock and 75 % of the cost of the insurance premium as regards insurance premiums for the destruction of such fallen stock.

(413) Member States may limit the amount of the insurance premium that is eligible for aid by applying appropriate ceilings.

1.2.1.7. Aid for financial contributions to mutual funds

(414) The Commission will consider aid for financial contributions to mutual funds to pay compensation to active farmers for damage caused by adverse climatic events which can be assimilated to a natural disaster, animal diseases, plant pests and infestations by invasive alien species of Union concern or of Member State concern as referred to in Sections 1.2.1.2. and 1.2.1.3., for damage caused by environmental incidents, removal and destruction of fallen stock as referred to in Section 1.2.1.4 and damage caused by protected animals, as referred to in Section 1.2.1.5. compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

(416) Aid can be granted only for covering losses which exceed a threshold of at least 20 % of the average annual production or income 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 entry. Sectoral production risk management tools must calculate the losses either at holding level or at the level of the holding's activity in the sector concerned.

(417) The mutual fund concerned must:

(a) be accredited by the competent authority of the Member State in accordance with national law;
(b) have a transparent policy towards payments into and withdrawals from the fund;
(c) have clear rules attributing responsibilities for any debts incurred.

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

Eligible costs

(419) The eligible costs are the costs of the financial contributions to mutual funds to pay compensation to farmers for damage caused by adverse climatic events which can be assimilated to a natural disaster, animal diseases, plant pests and infestation by invasive alien species of Union concern or of Member State concern as referred to in Sections 1.2.1.2 and 1.2.1.3, for damage caused by environmental incidents, removal and destruction of fallen stock as referred to in Section 1.2.1.4 and damage caused by protected animals, as referred to in Section 1.2.1.5. The financial contributions may only relate to the amounts paid by the mutual fund as financial compensation to undertakings active in the primary agricultural production.

(420) In respect of aid for financial contributions to mutual funds to pay compensation for damage caused by environmental incidents, the occurrence of an environmental incident has to be formally recognised as such by the competent authority of the Member State concerned.

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

(422) Indexes referred to in points (338) and (339) may be used in order to calculate the annual agricultural production of the beneficiary and the extent of the loss.

Aid intensity

(423) The aid must be limited to 70 % of the eligible costs.

1.2.2. Aid for Closing Production Capacity

(424) This Section applies to the whole agricultural sector as defined in point (32)9.

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

(425) The Commission will consider aid for the closing of capacity compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(426) The closing of capacity is done for animal, plant or human health, sanitary, ethical or environmental reasons, such as the reduction of overall stocking densities.

(427) The beneficiary must provide a minimum (sufficient) contribution in the form of a definitive and irrevocable decision to scrap or irrevocably close the production capacity concerned. This decision will involve either the complete closure of capacity by the undertaking concerned or where duly justified, the partial closure of capacity. Legally binding commitments must be obtained from the beneficiary that the closure of the production capacity concerned is definitive and irreversible and that the beneficiary will not start the same activity elsewhere. Those commitments must also be binding on any future purchaser of the land or facility concerned.

(428) Only undertakings that have actually been producing, and only production capacities that have actually been in constant use over the past five years before the closing of capacity are eligible for aid. In cases where the production capacity has already closed definitively, or where such closure appears inevitable, no minimal (sufficient) contribution effort is present from the beneficiary, and aid may not be granted.

(429) The Commission reserves the right to attach additional conditions to the authorisation of the aid.

(430) Only undertakings fulfilling Union standards are eligible for aid. Undertakings which do not fulfil Union standards and which would be obliged to stop production anyway are excluded.

(431) In order to avoid erosion and other negative effects on the environment, open farmland taken out of production must in principle be afforested or turned into nature area within a period of two years and in such a way as to ensure that negative effects on the environment are avoided. To prevent negative climatic effects, agricultural land reconvereted to wetland or peatland should not be afforested inappropriately. Alternatively, open farmland may be re-used after 20 years following effective capacity closure. Until then, such farmland must be maintained in good agricultural and environmental condition in accordance with the GAEC standards established under Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115 and with the relevant implementing rules. The closure of installations falling within the scope of Directive 2010/75/EU of the European Parliament and of the Council[67] must be carried out in accordance with Articles 11 and 22 of that Directive.

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

Eligible costs

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

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

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

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

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

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

Aid intensity

(438) The maximum aid intensity is set as follows:

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

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

1.2.2.2.Closing of capacity for other reasons

(439) The Commission will consider aid for the closing of capacity for other reasons than those laid down in Section 1.2.2.1 compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

(441) The conditions laid down in points (427) to (431) must be fulfilled.

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

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

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

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

Eligible costs and aid intensity

(446) The provisions on eligible costs and on aid intensity laid down in Section 1.2.2.1 of this Part are applicable, with the exception of the costs referred to in point (434).

1.3. Other types of aid in the agricultural sector

1.3.1. Aid to the livestock sector

(447) The Commission takes a favourable view towards aid that contributes to the maintenance and improvement of the genetic quality of the Union livestock. It will therefore consider aid in the livestock sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

(449) The aid should be provided in the form of subsidized service and should not involve direct payments to the beneficiaries.

Eligible costs

(450) The aid covers the costs for the establishment and maintenance of breeding books as well as tests performed by or on behalf of third parties, to determine the genetic quality or yield of livestock, with the exception of controls undertaken by the owner of the livestock and routine controls of milk quality.

(451) The eligible costs include:

(a) the following administrative costs for the establishment and maintenance of breeding books referred to in point (450):

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

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

(iii) costs for the update of software for managing data in the breeding books;

(iv) costs for the on-line publication of information about breeding books and of data from the breeding books;

(v)other related administrative costs.

(b) the following costs for the tests to determine the genetic quality or yield of livestock referred to in point (450):

(i) costs for tests or controls;

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

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

(iv) other related administrative costs.

Aid intensity

(452) The aid may cover up to 100 % of the financing of the administrative costs of the establishment and maintenance of breeding books referred to in point (451)(a).

(453) The aid may cover up to 70 % for the costs of tests performed by or on behalf of third parties, to determine the genetic quality or yield of livestock, referred to in point (451)(b).

1.3.2. Aid for promotion measures in favour of agricultural products

(454) The Commission will consider aid for promotion of agricultural products and of food products based on agricultural products, listed in Annex I to Regulation (EU) 1144/2014 compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(455) This Section applies to the whole agricultural sector as defined in point (32)(9) of these Guidelines. The beneficiaries of aid for the organisation of competitions, trade fairs or exhibitions, referred to in point (464)(a) must be limited to SMEs.

(456) The promotion activity must be designed either to inform the public about the characteristics of agricultural products, for example, by organising competitions, by participating in trade fairs and public relations activities, by the vulgarisation of scientific knowledge or by publications with factual information, or to encourage economic operators or consumers to buy the agricultural product in question by way of promotion campaigns. The promotion activity may be implemented in the internal market and in third countries.

(457) The promotion measures may:

(a) relate specifically to products covered by quality schemes referred to in point (276); or

(b) be generic in character and for the benefit of all producers of the type of product concerned.

(458) The promotion measures must comply with Regulation (EU) No 1169/2011 of the European Parliament and of the Council[68] and, where appropriate, with specific labelling rules.

(459) Member States must send to the Commission representative samples of promotion material when notifying an aid or an aid scheme for a promotion measure. If that material is not available at the time of the notification, a commitment should be taken to provide it at a later stage and in any case before the launching of the promotion measure.

(460) Promotion measure exceeding the notification threshold referred to in point (34)(b) must be notified individually.

[68] Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

The provision of promotion measures may be undertaken by producer groups or other organisation regardless of their size. Where the promotion measure is undertaken by producer groups or other organisations, participation must not be made conditional on membership to those groups or organisations and any contribution in terms of administration fees for the group or organisation must be limited to the cost of providing the promotion measure.

(461) The aid must be granted in one of the following forms:
- (a) in the form of subsidised services;
- (b) on the basis of reimbursement of real costs incurred by the beneficiary;
- (c) with regard to aid for symbolic prizes, also in cash.

(462) By way of derogation from point (461), aid for promotion campaigns must be granted only in the form of subsidised services.

(463) The aid for symbolic prizes referred to in point (464)(a)(v) may only be paid to the provider of the promotion measures if the prize has been actually granted and upon presentation of a proof of the award.

Eligible costs

(464) The costs eligible for aid for the promotion of agricultural products are the following:
- (a) concerning the organisation of and participation in competitions, trade fairs and exhibitions, provided that aid is accessible to all those eligible in the area concerned, based on objectively defined conditions:
  (i) participation fees;
  (ii) travel costs and costs for the transportation of products concerned by the participation in competitions, trade fairs and exhibitions;
  (iii) costs of publications and websites announcing the event;
  (iv) the rent of premises and stands and costs of their installation and dismantling;
  (v) symbolic prizes up to a value of EUR 3000 per prize and per winner of a competition;
- (b) the costs of publications in print and electronic media, websites, and spots in electronic media, on radio or television, aimed at presenting factual information about producers from a given region or producers of a given product, provided that the information is neutral and that all producers have equal opportunities to be represented in the publication;
- (c) the costs for the dissemination of scientific knowledge and factual information on:
  (i) quality schemes referred to in point (276) open to agricultural products from other Member States and third countries;
  (ii) generic agricultural products and their nutritional benefits and suggested uses for them;
- (d) the costs for consumer-targeted promotion campaigns organised in the media or at retail outlets and the costs for all promotion material which is distributed directly to consumers.

Reference to particular undertaking, brand name or origin

(465) Promotion activities referred to in point (464)(c) and promotion campaigns referred to in point (464)(d), in particular those that are generic in character and for the

benefit of all producers of the type of product concerned as referred to in point (460)(b), must not mention any particular undertaking, brand name or origin. Promotion campaigns referred to in (464)(d) must not be earmarked for products of one or more particular company or companies. The Commission will not declare compatible State aid for promotion which risks endangering sales or denigrates products from other Member States.

(466) However, the restriction on the reference to origin set out in point (465), first sentence, does not apply to:

(a) promotion activities and promotion campaigns referred to respectively in point (464)(c) and (d), that relate specifically to products covered by quality schemes as referred to in point (276), provided the following conditions are fulfilled:

(i) where the promotion activity relates specifically to Union-recognised denominations referred to in Title II of Regulation (EU) No 1151/2012, it may refer to the origin of products provided that the reference corresponds exactly to that registered by the Union;

(ii) where the promotion activity concerns products covered by quality schemes other than schemes for Union-recognised denominations referred to in Title II of Regulation (EU) No 1151/2012, the origin of the products may be mentioned provided it is secondary in the message. In order to determine whether the reference to origin is secondary, the Commission will take into account the overall amount of text, the size of the symbol including images and the general presentation referring to the origin as compared with the text or symbol referring to the key sales pitch, that is to say, the part of the promotion not relating specifically to the origin of the product. The reference to the origin must not be discriminatory, must not aim at encouraging the consumption of the agricultural product on the sole ground of its origin, must respect the general principles of Union law and must not amount to a restriction of the free movement of agricultural products in breach of Article 34 of the Treaty;

(b) promotion activities and promotion campaigns with the objective of preserving the agricultural community, promotion activities and promotion campaigns of products on local markets, provided that the following conditions are fulfilled:

(i) the indication of origin of the product is secondary in the main message;

(ii) the promotion activity is proportionate to the objective pursued. In this regard, the Commission takes into account whether the measure contributes to the attainment of the objectives of the CAP provided for in Article 39 of the Treaty, criteria linked to the production method and seasonality of the product, so as to ensure that the benefits of short supply chains of products are not counterbalanced by negative impacts of production methods used[69].

Aid intensity

(467) The aid intensity for eligible costs, referred to in point (464)(a) to (c), may be up to 100 % of the eligible costs.

[69] Such as emissions due to the heating of greenhouses.

(468) The aid intensity for promotion campaigns relating specifically to products covered by quality schemes, as referred to in point (464)(d) in conjunction with point (457)(a) may not exceed 50 % of the eligible costs of the campaign or 80 % as regards promotion in third countries. If the sector contributes at least 50 % of the costs, irrespective of the form of the contribution, for example special taxes, the aid intensity may be up to 100 %.

(469) The aid intensity for generic promotion campaigns, referred to in point (464)(d) in conjunction with point (457), may cover up to 100 % of the eligible costs.

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

(470) The Commission will consider aid for the outermost regions and the smaller Aegean islands compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(471) This Section applies to the whole agricultural sector as defined in point (32) 9.

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

(a) measures in favour of local agricultural productions under Chapter IV of that Regulation;

(b) aids granted by France to the sugar sector under Article 23(3) of that Regulation;

(c) aids for plant health programmes under Article 24 of that Regulation;

(d) aids granted by Spain for the production of tobacco in the Canary Islands under Article 28 of that Regulation.

(473) Save in those cases, State aid rules apply to measures with regard to the outermost regions, without prejudice to the rule laid down in Article 23(1) of Regulation (EU) No 228/2013.

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

(475) Save in those cases, State aid rules apply to measures with regard to the smaller Aegean islands, without prejudice to the rule laid down in Article 17(1) of Regulation (EU) No 229/2013.

Eligible costs

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

(a) the beneficiaries have their production activity in the outermost regions or in the smaller Aegean islands;

(b) the aid is objectively quantifiable in advance on the basis of a fixed sum or per ton/kilometer ratio or any other relevant unit;

(c) the additional transport costs are calculated on the basis of the journey of the products inside the national border of the Member State concerned using the

means of transport which results in the lowest costs for the beneficiary, taking into account the external costs to the environment;

(d) for outermost regions, the eligible additional transport costs may include the costs of transporting agricultural products from the place of their production to locations in outermost areas where they are further processed.

(477) The Commission will examine plans to grant State aid for other costs than additional transport costs which is designed to meet the needs of the outermost regions and the smaller Aegean islands on a case-by-case basis, on the basis of the conditions laid down in Part I, Chapter 3, of these Guidelines and the specific legal provisions applying to those regions, and having regard, if applicable, to the compatibility of the measures concerned with the CAP Strategic Plans for the regions concerned, and their effects on competition both in the regions concerned and in other parts of the Union.

1.3.4. Aid for agricultural land consolidation

(478) The Commission will consider aid for agricultural land consolidation compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

Eligible costs

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

Aid intensity

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

1.3.5. Aid for research and development in the agricultural sector

(481) The Commission will consider aid for research and development in the agricultural sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(482) This Section applies to the whole agricultural sector as defined in point (32)9.

(483) The aided project must be of interest to all undertakings active in the particular agricultural sector or sub-sector concerned.

(484) Prior to the start date of the aided project the following information must be published on the internet:

(a) the start date of the aided project;

(b) the goals of the aided project;

(c) an approximate date of the publication of the results expected from the aided project;

(d) the place of publication on the internet of the results expected from the aided project on the internet;

(e) a reference that the results are available to all undertakings active in the particular agricultural sector or sub-sector concerned at no cost.

(485) The results of the aided project must be made available on the internet from the end date of the aided project or the date on which any information concerning those results is given to members of any particular organisation, whatever comes first. The results must remain available on the internet for a period of at least five years starting from the end date of the aided project.

(486) Aid must be granted directly to the research and knowledge-dissemination organisation. The measure must not involve the provision of aid based on the price of the agricultural products to undertakings active in the agricultural sector.

Eligible costs

(487) The eligible costs include the following:

(a) personnel costs related to researchers and technical and other supporting staff to the extent employed on the project;

(b) costs of instruments and equipment to the extent and for the period used for the project. Where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible;

(c) costs of buildings and land, to the extent and for the period used for the project. With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible. With regard to land, costs of commercial transfer or actually incurred capital costs are eligible;

(d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, and costs of consultancy and equivalent services used exclusively for the project;

(e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.

Aid intensity

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

(489) Aid for research and development in the agricultural sector which does not fulfil the conditions laid down in points (481) to (488) will be assessed in accordance with the Framework for State aid for research and development and innovation.

Chapter 2. Aid for the forestry sector

(490) The forestry sector does not fall within the scope of Article 42 of the Treaty and Annex I thereto. Articles 107, 108 and 109 of the Treaty apply to aid granted by Member States to the forestry sector. Despite the fact that the production of natural cork, unworked, crushed, granulated or ground, waste cork (CN heading 4501) and the production of chestnut (*Castanea spp.*, CN code 08024100) are covered by

Annex I to the Treaty, aid for forestry activities related to those trees can fall within the scope of this Chapter.

(491) In accordance with Article 5, point (b) and Article 6(1), points (d) to (f) and (h), of Regulation (EU) 2021/2115, aid for sustainable and climate friendly land use includes forest area development and sustainable management of forests. This Chapter aims at ensuring coherence with Regulation (EU) 2021/2115 and with its delegated and implementing acts and with the general State aid principles. Those principles affect eligible costs and aid intensities under this Chapter.

(492) The provisions of this Chapter are without prejudice to the possibility of granting State aid for the forestry sector under Union legislation common either to all sectors or to trade and industry, as referred in point 33. Aid for investments in energy saving and renewable energies do not fall within the scope of this Chapter, as such aid must comply with the Guidelines on State aid for climate, environmental protection and energy 2022, unless it is exempt from the notification obligation. These Guidelines do not apply to forest-based industries.

(493) This Chapter covers aid for the forestry sector as referred to in point (21)(b).

(494) In accordance with this Chapter, the Commission will declare State aid for the forestry sector financed exclusively from national resources compatible with the internal market under Article 107(3), point (c), of the Treaty if the aid complies with Chapter 3 of Part I of these Guidelines and the specific requirements laid down in Sections 2.1 to 2.9.

(495) However, where aid for the forestry sector is co-financed by the EAFRD, the Commission will declare such State aid compatible with the internal market under Article 107(3), point (c), of the Treaty, provided that it complies with the following conditions:

(a) the aid is included in the CAP Strategic Plans drawn up in accordance with Regulation (EU) 2021/2115 either as aid co-financed by the EAFRD or as additional national financing to such aid;

(b) the aid is not granted in favour of working capital, except where aid is provided in the form of financial instruments;

(c) the aid is not granted as operating aid, unless exceptions are expressly provided for in the relevant Union legislation;

(d) the aid is not granted to undertakings in difficulty within the meaning of point (32)66;

(e) the aid is not granted to an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market;

(f) the aid complies with the conditions laid down in point (492).

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

(496) The Commission will consider aid for investments in forest area development and the improvement of viability of forests compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(497) This Section concerns aid for afforestation and creation of woodland, the establishment, regeneration or renovation of agro-forestry systems, the prevention and restoration of damage to forests from forest fires, natural disasters, adverse

climatic events, catastrophic events, climate change related events, pest and disease outbreaks, investments improving the resilience and environmental value, as well as the mitigation potential of forest ecosystems and investments in forestry technologies and in the processing, in the mobilising and in the marketing of forest products.

(498) The following costs are not eligible:

(a) working capital;

(b) purchase of payment entitlements;

(c) purchase of land for an amount exceeding 10 % of the total eligible expenditure for the operation concerned, except for land purchase for environmental conservation and carbon-rich soil preservation, which may be eligible to a higher rate than 10 %;

(d) interest rate on debt, except in relation to grants given in the form of an interest rate subsidy or guarantee fee subsidy.

2.1.1. Aid for afforestation and creation of woodland

(499) The Commission will consider aid for afforestation and creation of woodland compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

Eligible costs

(500) Aid covers the costs of establishment of forest and woodland on agricultural and non-agricultural land. Furthermore, aid in the form of an annual premium per hectare may be granted to cover the costs of agricultural income foregone and maintenance, including early and late cleanings, for a maximum period determined by the Member State. The costs of equipment for afforestation and creation of woodland may only be supported under Section 2.1.5. The costs of establishment may include the replacement of die-off during the first year. The costs of maintenance may include the replacement of small-scale of die-off during the first years following plantation. The costs of the replacement of large-scale die-off may only be supported under Section 2.1.3.

(501) No aid may be granted for the planting of trees for short rotation coppicing, Christmas trees or fast growing trees for energy production and for investments in afforestation which are not consistent with climate and environmental objectives in line with sustainable forest management principles, as developed in the Pan-European Guidelines for Afforestation and Reforestation[70]. Species planted must be adapted to the environmental and climatic conditions of the area and comply with minimum environmental requirements referred to in point (502).

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

(a) the selection of species to be planted, of areas and of methods to be used must avoid the inappropriate afforestation of sensitive habitats such as peat lands and wetlands and negative effects on areas of high ecological value including areas

[70] hiips://foresteurope.org/wp-content/uploads/2016/08/Pan-EuropeanAfforestationReforestationGuidelines.pdf

under high natural value farming. On sites designated as Natura 2000 pursuant to Directive 92/43/EEC and Directive 2009/147/EC only afforestation consistent with the management objectives of the sites concerned and agreed with the Member State's authority in charge of implementing Natura 2000 must be allowed;

(b) the selection of species, varieties, ecotypes and provenances of trees must take account of the need for resilience to climate change and to natural disasters and the pedologic and hydrologic condition of the area concerned, as well as of the potential invasive character of the species under local conditions as defined by Member States. The beneficiary must be required to protect and care for the forest at least during the period for which the premium for agricultural income foregone and maintenance is paid. This must include tending, thinning or grazing, as appropriate, in the interest of the future development of the forest and regulating competition with herbaceous vegetation and avoiding the building up of fire prone undergrowth material. As regards fast-growing species, Member States must define the minimum and maximum time before felling. The minimum time must not be less than 8 years and the maximum must not exceed 20 years;

(c) in cases where, due to difficult soil, environmental or climatic conditions, including environmental degradation, the planting of perennial woody species cannot be expected to lead to the establishment of forest cover as defined in accordance with the applicable national legislation, the Member State concerned may allow the beneficiary to establish other woody vegetation cover such as shrubs or bushes suited to the local conditions. The beneficiary must ensure the same level of care and protection as applicable to forests;

(d) in the case of afforestation operations leading to the creation of forests of a size exceeding a certain threshold, to be defined by Member States, the operation must consist of either of the following:

(i) the planting of ecologically adapted species and/or species resilient to climate change in the bio-geographical area concerned, which have been found, through an assessment of impacts, not to threaten biodiversity and ecosystem services, or to have a negative impact on human health;

(ii) a mix of tree species which includes either at least 10 % of broadleaved trees by area, or a minimum of three tree species or varieties, with the least abundant making up at least 10 % of the area.

(503) The notification to the Commission should contain a sound description demonstrating compliance with the conditions laid down in point (502) and justifications where any derogation applies.

Aid intensity

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

2.1.2. Aid for the establishment, regeneration or renovation of agro-forestry systems

(505) The Commission will consider aid for the establishment, regeneration or renovation of agro-forestry systems compatible with the internal market under Article 107(3),

point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(506) The aid may be granted for establishing land use systems in which trees are grown in combination with agriculture on the same land as defined in point (32)10.

Eligible costs

(507) The aid covers the costs of the establishment, regeneration or renovation and an annual premium per hectare may be granted to cover the costs of the maintenance, for a maximum period determined by the Member State.

(508) Member States must determine the structure and composition of the agroforestry system, taking account of local pedo-climatic and environmental conditions, forestry species and the need to ensure sustainable agricultural use of the land.

Aid intensity

(509) The aid may be up to 100 % of the eligible costs.

2.1.3. Aid for the prevention and restoration of damage to forests

(510) The Commission will consider aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to natural disaster, other adverse climatic events, plant pests, infestation by invasive alien species of Union concern or of Member State concern, catastrophic events, climate change related events and investments in maintaining the health of forests compatible with the internal market under Article 107(2), point (b), or, as the case may be, Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

Eligible costs

(511) The aid may cover the investment costs of prevention and restoration measures, such as:

(a) the establishment of protective infrastructure; in the case of firebreaks, aid may also cover aid contributing to maintenance costs; no aid may be granted for agriculture related activities in areas covered by agri-environment-climate commitments;

(b) local, small-scale prevention activities against fire or other natural hazards, including the costs of the use of grazing animals, such as sheds, watering, fences, and transport of the animals;

(c) establishing and improving forest fire, pest, invasive alien species of Union concern or of Member State concern and diseases monitoring facilities and communication equipment;

(d) restoring forestry potential damaged by fires, natural disasters, adverse climatic events which can be assimilated to natural disaster, other adverse climatic events, plant pests, invasive alien species of Union concern or of Member State concern, catastrophic events and climate change related events. In case of damage by adverse climatic events which can be assimilated to a natural disaster

or plant pests or invasive alien species of Union concern or of Member State concern, if the damage can be linked to climate change, beneficiaries should endeavour to include in the restoration adaptation measures to climate change, in order to minimise damage and losses produced by similar events in the future;

(e) the costs of investments related to maintaining the health of forests.

(512) In the case of the restoration of forestry potential, referred to in point (511)(d), the aid must be subject to the formal recognition by the competent authority of the Member State that at least one of the events referred to in that point has occurred.

(513) In the case of aid for prevention of damage to a forest from plant pests or invasive alien species of Union concern or of Member State concern, the risk of the occurrence of the plant pest or invasive alien species of Union concern or of Member State concern must be supported by scientific evidence and acknowledged by a scientific public organisation. Where relevant, the list of harmful organisms which may become a plant pest must be provided in the notification.

(514) Eligible operations must be consistent with the forest protection plan established by the Member State when related to damage from forest fire or biotic agents.

(515) Only forest areas belonging to the forest protection plan established by the Member State concerned are eligible for aid for prevention of fire.

(516) No aid may be granted for loss of income resulting from fires, natural disasters, adverse climatic events which can be assimilated to natural disaster, other adverse climatic events, plant pests, invasive alien species of Union concern or of Member State concern, catastrophic events and climate change related events.

Aid intensity

(517) Aid may be granted up to 100 % of the eligible costs.

(518) Aid granted for the eligible costs referred to in point (511)(d) and any other payments received by the beneficiary, including payments under other national or Union measures or insurance policies for the same eligible costs, are limited to 100 % of the eligible costs.

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

(519) The Commission will consider aid for investments improving the resilience and environmental value of forest ecosystems compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

Eligible costs

(520) Investments must aim at fullfiling environmental commitments with the view to providing ecosystem services, enhancing the public amenity value of forests and woodland in the area concerned or improving the climate change mitigation and adaptation potential of ecosystems, without excluding economic benefits in the long term.

Aid intensity

(521) Aid may be granted up to 100 % of the eligible costs.

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

(522) The Commission will consider aid for investments enhancing forestry potential or relating to processing, mobilising and marketing adding value to forest products compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

Eligible costs

(523) Aid may be granted for investments enhancing forestry potential or relating to processing, mobilising and marketing adding value to forest products.

(524) Investments related to the improvement of the economic value of forests must be justified in relation to the expected improvements to forests on one or more holdings and may include investments for soil-friendly and resource-friendly harvesting machinery and practices.

(525) Investments related to the use of wood as a raw material or energy source must be limited to all working operations prior to industrial processing.

Aid intensity

(526) The aid must not exceed 65 % of the amount of the eligible costs. It may be increased to a maximum of 80 % for investments in the outermost regions or the smaller Aegean islands and for investments linked to one or more of the specific environmental- and climate-related objectives referred to in Article 73(4), point (a)(i), of Regulation (EU) 2021/2115.

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

(527) The Commission will consider aid for investments in infrastructure related to the development, modernisation or adaptation of forestry compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

Eligible costs

(528) The aid covers investment in tangible and intangible assets which concern infrastructure related to the development, modernisation or adaptation of forestry, including access to forest land, land consolidation and improvement, the digitalisation of forestry, the establishment of temporary storage facilities and the

supply of sustainable energy, energy efficiency, supply and saving of water, and including the use of livestock instead of machinery.

Aid intensity

(529) In the case of non-productive investments, investments aimed exclusively at improving the environmental value of forests and investments for forest roads, which are open to the public free of charge and which serve the multifunctional aspects of forest, the aid intensity is limited to 100 % of the eligible costs. The aid intensity is limited to 80 % for investments in the outermost regions or the smaller Aegean islands and for investments linked to one or more of the specific environmental- and climate-related objectives referred to in Article 73(4), point (a)(i), of Regulation (EU) 2021/2115, and to 65 % of the eligible costs in all other cases.

2.1.7. Aid for investments in favour of the conservation of cultural and natural heritage located in forests

(530) The Commission will consider aid for investments in favour of the conservation of cultural and natural heritage located in forests compatible with the internal market under Article 107(3), point (d), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

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

Eligible costs

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

(a) investment costs in tangible assets;

(b) capitalised works.

Aid intensity

(533) The aid must be limited to 100 % of the eligible costs. The aid for capitalised works must be limited to EUR 10 000 per year.

2.1.8. Aid for financial contributions to mutual funds in forestry

(534) The Commission will consider aid for financial contributions to mutual funds to pay compensation to forest holders and forest managers for damage caused by forest fire, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests, infestations by invasive alien species of Union concern or of Member State concern, catastrophic events and climate change related events as referred to in Section 2.1.3 and damage in forests caused by protected animals, as referred to in Section 2.8.5 compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(535) This Section applies to undertakings active in forestry.

(536) The mutual fund concerned must:

(a) be accredited by the competent authority of the Member State in accordance with national law;

(b) have a transparent policy towards payments into and withdrawals from the fund;

(c) have clear rules attributing responsibilities for any debts incurred.

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

Eligible costs

(538) The eligible costs are the costs of the financial contributions to mutual funds to pay compensation to forest holders and forest managers for damage caused by forest fire, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests, infestations by invasive alien species of Union concern or of Member State concern, catastrophic events and climate change related events as referred to in Section 2.1.3 and damage in forests caused by protected animals, as referred to in Section 2.8.5. The financial contributions may only relate to the amounts paid by the mutual fund as financial compensation to undertakings active in forestry.

(539) Aid can be granted only for covering losses which exceed a threshold of at least 20 % of the forestry potential.

(540) In respect of aid for financial contributions to mutual funds to pay compensation for damage caused by environmental incidents, the occurrence of an environmental incident must be formally recognised as such by the competent authority of the Member State concerned.

(541) Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to in point (540) is deemed to be granted.

Aid intensity

(542) The aid must be limited to 70 % of the eligible costs.

2.2. Aid for area-specific disadvantages resulting from certain mandatory requirements in forest areas

(543) The Commission will consider aid related to payments for area-specific disadvantages imposed by requirements resulting from the implementation of Directives 92/43/EEC, 2009/147/EC or 2000/60/EC compatible with the internal market under Article 107(3), point (c), of the Treaty with the view to contributing to the achievement of one or more of the specific objectives set out in Article 6(1) of Regulation (EU) 2021/2115, if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

Beneficiaries of the aid

(544) Aid may be granted to forest holders, forest managers and their associations.

Eligible costs

(545) Aid under this measure must be granted annually and per hectare of forest in order to compensate beneficiaries for all or part of the additional costs incurred and income foregone resulting from area-specific disadvantages in the areas concerned, including any transaction costs.

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

(a) Natura 2000 forest areas designated pursuant to Directive 92/43/EEC and Directive 2009/147/EC;

(b) other delimited nature protection areas with environmental restrictions applicable to forests which contribute to the implementation of Article 10 of Directive 92/43/EEC, provided that those areas do not exceed 5 % of the designated Natura 2000 areas covered by territorial scope of each CAP Strategic Plan.

Aid intensity

(547) Additional costs and income foregone referred to in point (545) must be calculated on the basis of the constraints arising from Directives 92/43/EEC, 2009/147/EC and 2000/60/EC.

(548) Aid intensity is limited to 100 % of the eligible costs.

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

(549) The Commission will consider aid for forest-environment and climate services and other management commitments compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(550) Aid covers voluntary management commitment(s) which are considered to be beneficial to achieving one or more of the climate- and environment-related specific objectives set out in Article 6(1) of Regulation (EU) 2021/2115 going beyond the relevant mandatory requirements established by the national forestry legislation or other relevant national or Union legislation. The relevant mandatory requirements must be identified and described in the State aid notification to the Commission.

(551) Commitments must be undertaken for a period of five to seven years. However, where necessary and duly justified, Member States may determine a longer period for particular types of commitments. In duly justified cases, e.g. in the case of forest genetic resources, Member States may determine a shorter period of at least one year in the State aid notification. Management interventions necessary only once or few times during the forest cycle are also eligible.

Eligible costs and modalities of the aid

(552) The eligible costs can be calculated either:

(a) as a compensation to beneficiaries for all or part of the additional costs and income foregone resulting from the commitments made. Where necessary, it may also cover transaction costs to a value of up to 20 % of the aid premium paid for the forest-environment commitments. The aid may cover collective schemes and result-based payments schemes, such as carbon farming schemes, to encourage beneficiaries to deliver a significant enhancement of the quality of the environment at a larger scale or in a measurable way. In addition to the compensation, an incentive payment, which may not exceed 20 % of the compensation, may be given;

(b) on the basis of the value of the forest-environment and climate services that are not remunerated by the market, including collective schemes and result-based payments schemes, such as carbon farming schemes.

(553) In duly justified cases, such as for operations concerning environmental conservation, the aid for commitments to renounce the commercial use of trees and forests may be granted as a flat rate or as a one-off payment per unit calculated on the basis of additional costs and income foregone.

(554) Aid may be provided for the conservation and promotion of forest genetic resources for operations not covered by points (549) to (553).

(555) Operations for the conservation of genetic resources in forestry must include the following:

(a) targeted actions: actions promoting the in situ and ex situ conservation, characterisation, collection and utilisation of genetic resources in forestry, including web-based inventories of genetic resources currently conserved in situ, including on-forest holding conservation, and of ex situ collections and databases;

(b) concerted actions: actions promoting the exchange of information for the conservation, characterisation, collection and utilisation of genetic resources in Union forestry, among competent organisations in the Member States;

(c) accompanying actions: information, dissemination and advisory actions involving non-governmental organisations and other relevant stakeholders, training courses and the preparation of technical reports.

Aid intensity

(556) The maximum aid intensity is set as follows:

(a) up to 120 % of the eligible costs for biodiversity, climate, water or soil related services, collective schemes and result-based payments schemes, such as carbon farming schemes;

(b) up to the value of the forest-environment and climate services that are not remunerated by the market, in the case of schemes calculating the eligible costs on the basis of point (552)(b);

(c) up to 100 % of the eligible costs for the conservation and promotion of forest genetic resources and in all other cases.

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

(557) The Commission will consider aid for knowledge exchange and information actions in the forestry sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(558) Member States must ensure that actions supported under this Section be consistent with the description of AKIS provided in the CAP Strategic Plan.

(559) Aid under this Section may cover costs of any relevant action to promote innovation, training, drawing up and updating of plans, studies, as well as exchange and dissemination of knowledge and information which contribute to achieving one or more of the specific objectives set out in Article 6(1) of Regulation (EU) 2021/2115.

(560) The aid may cover short term forest management exchanges and forest visits. Such schemes and visits must focus, in particular, on sustainable forestry methods or technologies, the development of new business opportunities and new technologies, and on the improvement of forest resilience. Aid for demonstration activities may cover relevant investment costs.

Aid intensity

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

2.5. Aid for advisory services in the forestry sector

(562) The Commission will consider aid for advisory services in the forestry sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(563) Member States must ensure that actions supported under this Section be consistent with the description of AKIS provided in the CAP Strategic Plan.

(564) The advisory services must cover economic, environmental and social dimensions and deliver up-to-date technological and scientific information developed by research and innovation.

(565) Member States must ensure that the advice given is impartial and that advisors have no conflict of interest.

(566) The aid must be granted in the form of subsidised services.

Eligible costs

(567) Aid will be granted to help forest holders to benefit from the use of advisory services with the view to improving the economic and environmental performance and the climate friendliness and resilience of their holdings, enterprise or investment. Aid may also be granted for establishing forest management plans.

(568) Advice to forest holders must be linked to at least one specific objectives set out in Article 6(1) of Regulation (EU) 2021/2115 and cover as a minimum the relevant obligations under Directive 92/43/EEC, Directive 2009/147/EC and Directive 2000/60/EC. It may also cover issues linked to the economic and environmental performance of the forest holding.

Aid intensity

(569) The aid intensity must be limited to 100 % of the eligible costs, provided that the aid does not exceed EUR 200 000 per undertaking within any three-year period.

2.6. Aid for cooperation in the forestry sector

(570) The Commission will consider aid for cooperation in the forestry sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(571) Aid may only be granted to promote cooperation that contributes to achieving one or more of the objectives set out in Article 6(1) of Regulation (EU) 2021/2115.

(572) Aid should be granted in order to promote cooperation involving at least two actors irrespective of whether they are active in the forestry sector or in the forestry and agricultural sectors but subject to the cooperation benefitting only the forestry sector or the forestry and agricultural sectors. Cooperation may take the following forms in particular:

(a) cooperation among different undertakings in the forestry sector and other actors active in the agricultural and forestry sectors that contribute to achieving one or more of the specific objectives set out in Article 6(1) of Regulation (EU) 2021/2115, including producer groups, and cooperatives;

(b) the creation of clusters and networks;

(573) The aid may not be granted for cooperation solely involving research bodies.

(574) The aid may be granted for cooperation relating, in particular, to the following activities:

(a) pilot projects;

(b) the development of new products, practices, processes and technologies in the forestry sector;

(c) cooperation among small operators in the forestry sector in organizing joint work processes and sharing facilities and resources;

(d) horizontal and vertical cooperation among supply chain actors for the establishment and development of short supply chains and local markets;

(e) promotion activities in a local context relating to the development of short supply chain and local markets;

(f) collective action undertaken with a view to mitigating or adapting to climate change;

(g) implementation, in particular by groups of public and private partners other than those referred to in Article 31(2), point (b), of Regulation (EU) 2021/2060, of local development strategies other than those referred to in Article 32 of Regulation (EU) 2021/1060.

(575) Aid for the creation of clusters and networks must be granted only to newly formed clusters and networks and those commencing an activity that is new to them.

(576) Aid for the establishment and development of short supply chains, as referred to in point (574)(d) and (e) must cover only supply chains involving no more than one intermediary between forest holder/manager and consumer.

Eligible costs and aid intensity

(577) Aid covers the following eligible costs in so far as they concern forestry activities:
- (a) the costs for studies of the area concerned, of feasibility studies, and of drawing up a business plan or local development strategy other than the one referred to in Article 32 of Regulation (EU) 2021/1060;
- (b) the running costs of cooperation, such as the salary of a 'coordinator';
- (c) the costs of operations to be implemented;
- (d) the costs for promotion activities;
- (e) the costs for drawing up forest management plans or equivalent instruments.

(578) Aid must be limited to a maximum period of seven years except for activities referred to in point (574)(g), and collective environment and climate actions in duly justified cases to achieve the specific environmental- and climate-related objectives set out in Article 6(1), points (d), (e) and (f) of Regulation (EU) 2021/2115.

(579) The costs of operations referred to in point (577)(c) which consist of investments, in particular direct costs of specific projects linked to the implementation of a forest management plan or equivalent must be limited to the eligible costs and maximum aid intensities of investment aid in the forestry sector, as specified in Section 2.1 of this Part on investment aid.

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

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

(581) The Commission will consider start-up aid for producer groups and organisations in the forestry sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines and with the conditions set out in this Section.

(582) Only producer groups or organisations that have been officially recognised by the competent authority of the Member State concerned on the basis of a submission of a business plan are eligible for aid. The aid must be granted subject to the obligation of the Member State to check that the objectives of the business plan have been reached within a period of five years from the date of recognition of the producer group or organisation.

(583) The agreements, decisions and other behaviour concluded in the framework of the producer group or organisation must comply with the relevant provisions of competition law, and in particular with Articles 101 and 102 of the Treaty.

(584) The aid must not be granted to:
- (a) production organisations, entities or bodies, such as companies or cooperatives, the objective of which is the management of one or more forestry holdings and which must therefore be considered as single producers;
- (b) other forestry associations which undertake tasks, such as mutual support and forestry management services, in the members' holding without being involved in the joint adaptation of supply to the market.

Beneficiaries of the aid

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

Eligible costs

(586) The eligible costs may include the costs of the rental of suitable premises, the acquisition of office equipment administrative staff costs, overheads, legal and administrative fees, the acquisition of computer hardware and the acquisition or usage fees of computer software, cloud and similar solutions. Where premises are purchased, the eligible costs for premises must be limited to rental costs at market rates. Aid must not be paid in respect of costs incurred after the fifth year from the recognition of the producer group or organisation by the competent authority of the Member State on the basis of its business plan.

(587) Where the aid is paid in annual instalments, Member States must pay the last instalment only after having checked the correct implementation of the business plan.

Aid intensity

(588) The aid intensity may be up to 100 % of the eligible costs.

(589) The total amount of aid must be limited to EUR 500 000.

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

(590) The Commission will consider that State aid measures, with the primary objective to maintain, improve or restore ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem, are compatible with the internal market under Article 107(3), point (c), of the Treaty, if the conditions set out in this Section are fulfilled.

(591) Member States must demonstrate that the measures directly contribute to maintaining or restoring the ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem.

(592) No aid may be granted under this Section to forest based industries or for commercially viable extraction of timber or for transportation of timber or the processing of wood or other forestry resources into products or for energy generation. No aid may be granted for felling the primary purpose of which is the commercially viable extraction of timber or for simple restocking.

Aid intensity

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

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

(594) The Commission will consider aid for planting, pruning, thinning and felling of trees and other vegetation in existing forests, the removal of fallen trees, and the planning costs of such measures, aid for the costs of treating and preventing the spreading of pests, tree diseases and invasive alien species of Union concern or of Member State concern and aid to make good the damage caused by the pests, tree diseases and invasive alien species of Union concern or of Member State concern compatible with the internal market under Article 107(3), point (c), of the Treaty if the aid complies with Chapter 3 of Part I of these Guidelines, and the common rules set out in points (590) to (592), and where the primary objective of such measures is to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape.

(595) Aid for the costs of treating and preventing the spreading of pests, tree diseases and invasive alien species of Union concern or of Member State concern and aid to make good the damage caused by the pests, tree diseases and invasive alien species of Union concern or of Member State concern may be granted for the following eligible costs:

(a) cost for preventive and treatment measures, including soil preparation for replanting, and for the products, appliances and materials necessary for such measures. The principles of integrated pest management set out in Article 14 of and Annex III to Directive 2009/128/EC must be complied with, in particular for what concerns the use of plant protection products, as required by Article 55 of Regulation (EC) No 1107/2009;

(b) loss of stock and restocking costs up to the market value of the stock destroyed on the order of the authorities to fight the disease or pest in question. When calculating the increment loss, the potential increment of the stock destroyed until the normal felling age may be taken into consideration.

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

(596) The Commission will consider aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, the common rules set out in points (590) to (592) and with the conditions set out in this Section.

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

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

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

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

(600) The Commission will consider aid for the restoration and maintenance of natural pathways, landscape elements and features and natural habitat for animals in the forestry sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, the common rules set out in points (590) to (592) and with the conditions set out in this Section.

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

(602) Measures aiming at the implementation of the Directive 92/43/EEC and Directive 2009/147/EC are excluded from this type of aid, as they should be put in place in accordance with the conditions of Section 2.2 of this Part.

2.8.4. Aid for maintaining roads to prevent forest fires

(603) The Commission will consider aid for maintaining roads compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, the common rules set out in points (590) to (592) and with the conditions set out in this Section.

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

2.8.5. Aid to make good the damage in forests caused by protected animals

(605) The Commission will consider aid to make good the damage caused by protected animals in forests compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, the common rules set out in points (590) to (592) and with the conditions set out in this Section.

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

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

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

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

Eligible costs

(610) The eligible costs are the amount of the damage incurred as a direct consequence of the event causing the damage, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking.

(611) The damage may include the following:

(a) damage to living trees. The aid may be granted to compensate for loss of stock and for restocking costs up to the market value of the stock destroyed by the protected animals. When calculating the market value of the increment loss, the potential increment of the stock destroyed until the normal felling age may be taken into consideration;

(b) other costs incurred by the beneficiary due to the event causing the damage, such as treatment measures, including soil preparation for replanting and the products, appliances and materials necessary for such operations;

(c) material damage to the following assets: forestry equipment, machinery and buildings. The calculation of the material damage must be based on the repair cost or economic value of the affected asset before the event caused the damage. It must not exceed the repair cost or the decrease in fair market value caused by the event, that is to say the difference between the asset's value immediately before and immediately after the event that caused the damage.

(612) The amount must be reduced by any costs not incurred because of the damaging event, that would otherwise have been incurred by the beneficiary.

(613) Preventive measures against damage done by protected animals in forests can be supported under Section 2.1.4 of this Part as protection of habitats and biodiversity-related actions.

(614) Aid for restoring damage in forests caused by protected animals can be granted if the conditions laid down in Section 2.1.3 are complied with.

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

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

(616) In the past, the Commission has established its policy that, with regard to specific, less distortive aid measures, the agricultural and forestry sectors are subject to common rules.

(617) As a result, the Commission will consider aid for research and development in the forestry sector and aid for forestry land consolidation compatible with the internal market if the conditions laid down in Sections 2.9.1 and 2.9.2 are met.

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

2.9.1. Aid for research and development in the forestry sector

(619) The Commission will consider aid for research and development in the forestry sector compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, with the condition laid down in point (618) and with the conditions set out in this Section.

(620) The aided project should be of interest to all undertakings active in the particular forestry sectors or sub-sectors concerned.

(621) Prior to the date of the start of the aided project the following information must be published on the internet:

(a) the start date of the aided project;

(b) the goals of the aided project;

(c) an approximate date for the publication of the results expected from the aided project;

(d) the place of publication of the results expected from the aided project on the internet;

(e) a statement that the results of the aided project are available to all undertakings active in the forestry sector or sub-sector concerned at no cost.

(622) The results of the aided project must be made available on the internetfrom the end date of the aided project or the date on which any information concerning those results is given to members of any particular organisation, whatever comes first. The results must remain available on the internet for a period of at least five years starting from the end date of the aided project.

(623) The aid should be granted directly to the research and knowledge-dissemination organisation and should not involve the provision of aid based on the price of the forestry products to undertakings active in the forestry sector.

Eligible costs

(624) The aid must be limited to the following eligible costs:

(a) personnel costs related to researchers, technical and other supporting staff to the extent employed on the project;

(b) costs of instruments and equipment to the extent and for the period used for the project. Where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible;

(c) costs of buildings and land, to the extent and for the period used for the project. With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible;

(d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project;

(e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.

Aid intensity

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

(626) Aid for research and development in the forestry sector which does not fulfil the conditions laid down in points (619) to (625) will be assessed in accordance with the Framework for State aid for research and development and innovation.

2.9.2. Aid for forestry land consolidation

(627) The Commission will consider aid for forest land consolidation compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with Chapter 3 of Part I of these Guidelines, with the condition laid down in point (618) and with the conditions set out in this Section.

Eligible costs

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

Chapter 3. Aid in rural areas which is co-financed by the EAFRD or granted as additional national financing to such co-financed interventions

(629) This Chapter applies to:
- (a) aid for basic services and infrastructure in rural areas[71];
- (b) business start-up aid for non-agricultural activities in rural areas;
- (c) aid for agri-environment-climate commitments in rural areas to beneficiaries other than farmers;
- (d) aid for area-specific disadvantages resulting from certain mandatory requirements to beneficiaries other than farmers;
- (e) aid to promote and support quality schemes for cotton or foodstuffs and their use by farmers;
- (f) aid for cooperation in rural areas, including aid for participating in community-led local development ('CLLD') and European Innovation Partnership for agricultural productivity and sustainability ('EIP') Operational Group projects;
- (g) aid for setting up mutual funds.

(630) The Commission will consider aid referred to in point (629) compatible with the internal market under Article 107(3), point (c), of the Treaty if it complies with the following conditions:
- (a) the aid is included in a CAP Strategic Plan pursuant to and in conformity with Regulation (EU) 2021/2115 either as aid co-financed by the EAFRD or as additional national financing to such aid;
- (b) the aid is not granted in favour of working capital, except where aid is provided in the form of financial instruments;
- (c) the aid is not granted as operating aid, unless exceptions are expressly provided for in the relevant Union legislation;
- (d) the aid is not granted to undertakings in difficulty within the meaning of point (32)66;
- (e) the aid is not granted to an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market.

[71] Articles 107, 108 and 109 of the Treaty apply to aid for basic services in rural areas, in so far as they constitute State aid within the meaning of Article 107(1) of the Treaty, taking also into account the interpretation of State aid given in the Commission notice on the notion of State aid (OJ C 262, 19.7.2016, p. 1).

(631) The provisions of this Chapter are without prejudice to the possibility of granting State aid for rural areas under Union legislation common either to all sectors or to trade and industry.

(632) Investments in energy saving and renewable energies are excluded from the scope of Chapter 3 of this Part. Such aid must comply with the Guidelines on State aid for climate, environmental protection and energy 2022, unless it is exempted from the notification obligation.

PART III. PROCEDURAL MATTERS

1. *Duration of aid schemes and evaluation*

(633) Following the practice established in its previous Guidelines, in order to contribute to transparency and to the regular review of all existing aid schemes, the Commission will only authorise aid schemes of limited duration. Schemes covering State aid for interventions that benefit from EAFRD co-financing in accordance with Regulation (EU) 2021/2115 should be limited to the duration of the programming period 2023-2027. Where Union legislation so allows, and in accordance with the conditions set out therein, Member States may continue to make new commitments for rural development on the basis of Regulation (EU) 2021/2115 and its delegated and implementing acts. The Commission will therefore apply these Guidelines also to such new commitments. Other aid schemes should not apply for a period of more than seven years.

(634) To ensure that distortion of competition and trade is limited, the Commission may require that aid schemes as referred to in point (635) are subject to an *ex post* evaluation. Evaluations will be carried out for schemes where the potential distortion of competition and trade is particularly high, that is to say, that may risk significantly restricting or distorting competition if implementation is not reviewed in due time.

(635) *Ex post* evaluation may be required for schemes with large aid budgets, or containing novel characteristics, or when significant market, technology or regulatory changes are foreseen. In any case, evaluation will be required for schemes with a State aid budget or accounted expenditure over EUR 150 million in any given year or EUR 750 million over their total duration, that is to say, the combined duration of the scheme and any predecessor scheme covering a similar objective and geographical area, starting from 1 January 2023. Given the objectives of the evaluation, and to avoid putting a disproportionate burden on Member States, *ex post* evaluations are only required for aid schemes the total duration of which exceeds three years, starting from 1 January 2023.

(636) The *ex post* evaluation requirement may be waived for aid schemes that are an immediate successor of a scheme covering a similar objective and geographical area that has been subject to an evaluation, delivered a final evaluation report in compliance with the evaluation plan approved by the Commission and has not generated any negative findings. Where the final evaluation report of a scheme is not in compliance with the approved evaluation plan, that scheme must be suspended with immediate effect.

(637) The aim of the evaluation should be to verify whether the assumptions and conditions underlying the compatibility of the scheme have been achieved, in particular the necessity and the effectiveness of the aid measure in the light of its

general and specific objectives. It should also assess the impact of the scheme on competition and trade.

(638) For aid schemes subject to the evaluation requirement according to point (635), Member States must notify a draft evaluation plan, which will form an integral part of the Commission's assessment of the scheme, as follows:

(a) together with the aid scheme, if the State aid budget of the scheme exceeds EUR 150 million in any given year or EUR 750 million over its total duration;

(b) within 30 working days following a significant change that increases the budget of the scheme to over EUR 150 million in any given year or EUR 750 million over the total duration of the scheme;

(c) within 30 working days following the recording in official accounts of expenditure under the scheme in excess of EUR 150 million in any year.

(639) The draft evaluation plan must be in line with the common methodological principles provided by the Commission[72]. Member States must publish the evaluation plan approved by the Commission.

(640) The *ex post* evaluation must be carried out by an expert independent from the aid granting authority on the basis of the evaluation plan. Each evaluation must include at least one interim and one final evaluation report. Member States must publish both reports.

(641) The final evaluation report must be submitted to the Commission in due time to allow it to assess any prolongation of the aid scheme and at the latest nine months before its expiry. That period may be reduced for schemes triggering the evaluation requirement in their last two years of implementation. The exact scope and arrangements for each evaluation will be set out in the decision approving the aid scheme. The notification of any subsequent aid measure with a similar objective must describe how the results of the evaluation have been taken into account.

2. *Revision clause*

(642) A revision clause should be provided for operations undertaken pursuant to Part II, Sections 1.1.4 and 1.1.5, Section 1.1.8 and Section 2.3, in order to ensure their adjustment in the case of amendments of the relevant mandatory standards, requirements or obligations referred to in those Sections beyond which the commitments referred to in those Sections have to go.

(643) Operations undertaken pursuant to Part II, Sections 1.1.4 and 1.1.5, Section 1.1.8 and Section 2.3 which extend beyond the rural development programming period 2023-2027 should contain a revision clause in order to allow for their adjustment to the legal framework of the following programming period.

(644) If the adjustments referred to in points (642) and (643) are not accepted or not implemented by the beneficiary, the commitment will expire and the aid amount should be reduced to the aid amount corresponding for the period until the expiry of the commitment.

3. *Reporting and monitoring*

[72] Commission staff working document, Common methodology for State aid evaluation, Brussels, 28.5.2014, SWD(2014) 179 final.

(645) In accordance with Council Regulation (EU) 2015/1589[73] and Commission Regulation (EC) No 794/2004[74], Member States must submit annual reports to the Commission.

(646) The annual report must also contain information concerning the following:

(a) animal diseases or plant pest concerned under Part II, Section 1.2.1.3;

(b) meteorological information on the type, timing, relative magnitude and location of the natural disasters or the climatic event which can be assimilated to a natural disaster referred to in Part II, Sections 1.2.1.1 and 1.2.1.2 respectively.

(647) The Commission reserves the right to seek additional information on existing aid schemes on a case-by-case basis, where this is necessary to enable it to fulfil its responsibilities under Article 108(1) of the Treaty.

(648) Member States must ensure that detailed records regarding all measures involving the granting of aid are maintained. Such records must contain all information necessary to establish that all conditions of these Guidelines regarding, where applicable, eligible costs and maximum allowable aid intensity have been observed. These records must be maintained for 10 years from the date of granting the aid and must be provided to the Commission upon request.

4. *Application of the Guidelines*

(649) The Commission will apply these Guidelines from 1 January 2023.

(650) The Commission will apply these Guidelines to all notified aid measures in respect of which it is called upon to take a decision after 1 January 2023, even where the aid was notified prior to that date. However, individual aid granted under approved aid schemes and notified to the Commission pursuant to an obligation to notify such aid individually will be assessed under the Guidelines that apply to the approved aid scheme on which the individual aid is based.

(651) Unlawful aid will be assessed in accordance with the rules in force on the date of granting the aid. Individual aid granted under an unlawful aid scheme will be assessed under the Guidelines that apply to the unlawful aid scheme at the time the individual aid was granted.

(652) The 2014 Guidelines for State aid in the agricultural and forestry sectors and in rural areas[75] will no longer apply as of the date of application of these Guidelines. For EAFRD co-financed rural development interventions, where Union law so allows, and in accordance with the conditions set out in the applicable rural development rules, Member States may continue to make new commitments under the 2014 Guidelines for State aid in the agricultural and forestry sectors and in rural areas in accordance with point (719) thereof.

(653) The Commission may decide to review or amend these Guidelines at any time if necessary for reasons associated with competition policy or to take account of other

[73] Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

[74] Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).

[75] OJ C 204 1.7.2014, p. 1.

Union policies, such as agricultural and rural development or human and animal health, plant protection, environmental and climate policy considerations, and international commitments, or for any other justified reason.

5. *Proposals for appropriate measures*

(654) In accordance with Article 108(1) of the Treaty, the Commission proposes that Member States amend their existing aid schemes to comply with these Guidelines by 30 June 2023 at the latest.

(655) The Member States are invited to give their explicit unconditional agreement to these proposed appropriate measures within two months from the date of publication of these Guidelines in the Official Journal of the European Union. In the absence of any reply, the Commission will assume that the Member State in question does not agree with the proposed measures.