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<sup>(1)</sup> Text with EEA relevance.

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION REGULATION (EU) 2022/2472

of 14 December 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 the Functioning of the European Union**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid <sup>(1)</sup>, and in particular Article 1(1), points (a) and (b) thereof,

Having published a draft of this Regulation in accordance with Article 6 and Article 8(2) of Regulation (EU) 2015/1588,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) State funding meeting the criteria laid down in Article 107(1) of the Treaty constitutes State aid and requires notification to the Commission by virtue of Article 108(3) thereof. However, pursuant to Article 109 of the Treaty, the Council may determine categories of aid that are exempted from that notification requirement. In accordance with Article 108(4) of the Treaty, the Commission may adopt regulations relating to those categories of aid. Regulation (EU) 2015/1588 empowers the Commission to declare, in accordance with Article 109 of the Treaty, that certain categories of aid may be exempted from the notification requirement of Article 108(3) of the Treaty. On the basis of that Regulation, the Commission adopted Commission Regulation (EU) No 702/2014 <sup>(2)</sup> 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 the Functioning of the European Union which applies until 31 December 2022.
- (2) Article 42 of the Treaty provides that the rules on competition apply to the production of and trade in agricultural products only to the extent determined by the European Parliament and the Council. Article 211 of Regulation (EU) No 1308/2013 of the European Parliament and the Council <sup>(3)</sup> provides that State aid rules apply to aid for the production of and trade in agricultural products, subject to specific derogations. Article 211(2) of Regulation (EU) No 1308/2013 provides that State aid rules do not apply to payments made by

<sup>(1)</sup> OJ L 248, 24.9.2015, p. 1.

<sup>(2)</sup> Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 193, 1.7.2014, p. 1).

<sup>(3)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulation (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

Member States for measures provided for in that Regulation which are partly or wholly financed by the Union and for measures included in Articles 213 to 218 of that Regulation. Moreover, pursuant to Article 145 of Regulation (EU) 2021/2115 of the European Parliament and of the Council <sup>(4)</sup>, State aid rules do not apply to payments made by Member States in accordance with that Regulation nor to additional national financing, within the scope of Article 42 of the Treaty. Such payments intended to provide additional national financing within the scope of Article 42 of the Treaty, have to comply with the criteria of Regulation (EU) 2021/2115 in order to be approved by the Commission as part of the CAP Strategic Plan of a given Member State. Nevertheless, State aid rules apply, both to the part co-financed under the European Agricultural Fund for Rural Development ('EAFRD') and to additional national financing for measures falling outside the scope of Article 42 of the Treaty.

- (3) As the economic effects of aid do not change depending on whether or not it is partly financed by the Union, or whether it is financed by a Member State alone, there should be consistency and coherence between the Commission's State aid control policy, and the support which is granted under the Union's own common agricultural and rural development policy.
- (4) The scope of this Regulation should therefore be aligned with that of Regulation (EU) 2021/2115 as regards measures co-financed by the EAFRD.
- (5) This Regulation should allow for a greater simplification, and should enhance transparency, effective evaluation and the control of compliance with the State aid rules at national and Union levels, while preserving the institutional competences of the Commission and the Member States.
- (6) The Commission has on numerous occasions applied Articles 107 and 108 of the Treaty to the agricultural and forestry sectors, in accordance with the conditions laid down in the 2014 Guidelines <sup>(5)</sup>. It has thus gained considerable experience in those fields on aid measures that are still subject to Member States' obligation to notify aid to the Commission. The Commission's experience has enabled it to better define the conditions under which certain categories of aid can be considered compatible with the internal market and to extend the scope of block exemptions, while still ensuring the transparency and proportionality of aid.
- (7) The general conditions for the application of this Regulation should be based on a set of common principles ensuring that the aid has a clear incentive effect, is appropriate and proportionate, is granted in full transparency and subject to a control mechanism and regular evaluation, and does not adversely affect competition and trading conditions.
- (8) Aid that fulfils all the conditions laid down in this Regulation, both general and specific to the relevant categories of aid, should be exempted from the notification requirement laid down in Article 108(3) of the Treaty. To ensure efficient supervision and simplifying administration, but without weakening the Commission's monitoring, exempted aid (aid schemes and individual aid) should contain a specific reference to this Regulation.
- (9) State aid within the meaning of Article 107(1) of the Treaty not covered by this Regulation remains subject to the notification requirement of Article 108(3) of the Treaty. This Regulation is without prejudice to the possibility for Member States to notify aid the objectives of which correspond to objectives covered by this Regulation.

<sup>(4)</sup> 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 Regulations (EU) No 1305/2013 and (EU) No 1307/2013, (OJ L 435, 6.12.2021, p. 1).

<sup>(5)</sup> 2014 European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas (OJ C 204, 1.7.2014, p. 1). Amended by the Notices published in OJ C 390, 24.11.2015, p. 4; OJ C 139, 20.4.2018, p. 3 and OJ C 403, 9.11.2018, p. 10, and by the Corrigendum published in OJ C 265, 21.7.2016, p. 5.

- (10) In view of the greater potential impact of large schemes on trade and competition, aid schemes with a budget exceeding a certain threshold in any given year or in total based on an absolute value should in principle be subject to State aid evaluation. The evaluation should aim at verifying whether the assumptions and conditions underlying the compatibility of the scheme have been achieved, as well as the effectiveness of the aid measure in the light of its general and specific objectives and should provide indications on the impact of the scheme on competition and trade. To ensure equal treatment, State aid evaluation should be carried out on the basis of an evaluation plan approved by the Commission. While such plans should normally be drawn up at the moment of the design of the scheme and approved in time for the scheme to enter into force, this may not be possible in all cases.
- (11) Therefore, in order not to delay their entry into force, this Regulation should apply to such schemes for an initial maximum period of six months. The Commission may decide to extend that period, upon approval of the evaluation plan.
- (12) To this end, the evaluation plan should be notified to the Commission within 20 working days following the entry into force of the scheme. The Commission can also exceptionally decide that an evaluation is not necessary given the specificities of the case. The Commission should receive from the Member State the necessary information to be able to carry out the assessment of the evaluation plan and request additional information without undue delay allowing the Member State to complete the missing elements for the Commission to take a decision.
- (13) With the exception of changes which do not affect the compatibility of the aid scheme under this Regulation or do not significantly affect the content of the approved evaluation plan, alternations to schemes subject to evaluation should be assessed taking account of the outcome of such evaluation and should be excluded from the scope of this Regulation. Alterations such as purely formal modifications, administrative modifications or alterations carried out within the framework of the Union co-financed measures should not, in principle, be considered as significantly affecting the content of the approved evaluation plan.
- (14) This Regulation should not apply to aid contingent upon the use of domestic over imported products or aid to export-related activities. In particular, it should not apply to aid financing the establishment and operation of a distribution network in another Member State or third country. 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 another Member State or third country should not constitute aid to export-related activities.
- (15) The Commission should ensure that authorised aid does not adversely affect trading conditions to an extent that is contrary to the general interest. Therefore, aid in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market should be excluded from the scope of this Regulation. However, it is important to act rapidly in the context of compensation aid in risk and crisis situations, such as aid to make good the damage caused by natural disasters or plant pests and aid for the costs of prevention, control and eradication of animal diseases. Therefore, the exclusion from aid should not apply in such situations. Moreover, given the nature of such schemes where individual beneficiaries are not identifiable, it should neither apply to aid of a limited amount for small and medium-sized enterprises ('SMEs') participating in community-led local development ('CLLD') or European Innovation Partnership for agricultural productivity and sustainability ('EIP') Operational Group projects.
- (16) Aid granted to undertakings in difficulty should, as a general rule, be excluded from the scope of this Regulation since such aid should be assessed under the Guidelines on State aid for rescuing and restructuring firms in difficulty <sup>(6)</sup>. However, it is necessary to establish certain exceptions from this rule. Firstly, this Regulation should apply to undertakings in difficulty in cases of aid to SMEs participating in or benefitting from CLLD projects or EIP Operational Group projects, where individual beneficiaries of such schemes can hardly be identified. Secondly, it should apply to such undertakings in cases where public health protection is at stake, i.e. in cases of aid for the costs of the eradication of animal diseases and of aid for the destruction and removal of fallen stock. Thirdly, in

<sup>(6)</sup> OJ C 249, 31.7.2014, p. 1.

view of Article 107(2), point (b), of the Treaty, this Regulation should also apply to undertakings in difficulty in cases where aid is paid to make good the damage caused by natural disasters. The same should apply in cases where the reason why an undertaking falls into difficulty is due to damage caused by events outside the control of the concerned undertaking, namely adverse climatic events that can be assimilated to a natural disaster, by animal diseases or plant pests, by protected animals, by forest fires, catastrophic events in forests and climate change related events in forests.

- (17) If a State aid or the conditions attached to it, including its financing method when it forms an integral part of it, entail a non-severable violation of Union legislation, the aid may not be declared compatible with the internal market. This Regulation should therefore not apply to aid which entails a non-severable violation of Union legislation
- (18) State aid enforcement is highly dependent on the cooperation of Member States. Therefore, Member States should take all necessary measures to ensure compliance with this Regulation, including compliance of individual aid granted under block-exempted schemes.
- (19) Due to the high risk of adversely affecting trading conditions, large amounts of aid granted either individually or cumulatively should be assessed by the Commission upon notification. Thresholds by maximum aid amount should therefore be set for certain categories of investment aid falling within the scope of this Regulation at a level which takes into account the category of aid concerned and its likely effect on trading conditions. Any aid granted above those thresholds should remain subject to the notification requirement of Article 108(3) of the Treaty. The thresholds laid down in this Regulation should not be circumvented by the artificial splitting up of aid schemes or aid projects, for example into several aid schemes or projects with similar characteristics, objectives or beneficiaries. Other categories of aid, to the extent that the compatibility conditions and the maximum aid intensities or the maximum aid amounts laid down in this Regulation are respected, should not be considered as having a high risk of adversely affecting trading conditions.
- (20) For the purpose of transparency, equal treatment and effective monitoring, this Regulation should apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent *ex ante* without the need to undertake a risk assessment ('transparent aid').
- (21) With regard to certain specific aid instruments, such as loans, guarantees, tax measures and, in particular, repayable advances, this Regulation should define the conditions under which they can be considered transparent. Aid comprised in guarantees should be considered as transparent if the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down for the respective type of undertaking. It should also be considered transparent if before the implementation of the measure, the methodology used to calculate the aid intensity of the state guarantee has been notified to and approved by the Commission in accordance with the Notice Guarantees (7). For the purpose of this Regulation, aid comprised in risk finance measures and capital injections should not be considered as transparent aid.
- (22) Aid which would otherwise fall within the scope of this Regulation but is not transparent should always be notified to the Commission. Notification of non-transparent aid should be assessed by the Commission in particular in the light of the criteria set out in the 2023 Guidelines (8) or the other relevant frameworks, guidelines, communications and notices.
- (23) In order to ensure that aid is necessary and acts as an incentive to further develop activities or projects, this Regulation should not apply to aid for activities or projects in which the beneficiary would engage regardless, even in the absence of the aid. No aid should be granted retroactively in respect of activities or projects which have already been undertaken by the beneficiary. Aid should only be exempted from the notification requirement of Article 108(3) of the Treaty in accordance with this Regulation where the activity or the work on the aided project starts after the beneficiary has submitted a written application for the aid.

(7) Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (OJ C 155, 20.6.2008, p. 10).

(8) 2023 European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas, Communication from the Commission Guidelines for State aid in the agricultural and forestry sectors and in rural areas (OJ C 485, 21.12.2022, p. 1).

- (24) As regards any ad hoc aid covered by this Regulation granted to a beneficiary which is a large enterprise, the Member State should, in addition to the conditions on the incentive effect applicable to SMEs, also ensure that the beneficiary has analysed, in an internal document, the viability of the aided project or activity with aid and without aid. The Member State should verify that this internal document confirms a material increase in the scope of the project or activity, a material increase in the total amount spent by the beneficiary on the aided project or activity or a material increase in the speed of completion of the project or activity concerned. It should also be possible to establish the incentive effect on the basis of the fact that the investment project or the activity would not have been carried out as such in the rural area concerned in the absence of the aid.
- (25) Automatic aid schemes in the form of tax advantages should continue to be subject to a specific condition concerning the incentive effect, in the light of the fact that the aid resulting from such aid schemes is granted automatically. That specific condition means that those aid schemes should have been adopted before the activity or the work on the aided project/activity started. However, this condition should not apply in the case of fiscal successor schemes provided the activity was already covered by the previous fiscal schemes in the form of tax advantages. For the assessment of the incentive effect of successor aid schemes, the crucial moment is the moment when the tax measure was set out for the first time in the original scheme.
- (26) Regarding Natura 2000 <sup>(9)</sup> areas for agriculture, the aim is to ensure environmental performance and efficiency of undertakings active in the agricultural sector. The aid per hectare should comply with Union legislation and with the national laws of the Member States concerned on environmental protection, the achievement of agri-environmental-climate objectives, including biodiversity conservation status of species and habitats as well as enhancing the public amenity value of Natura 2000 areas.
- (27) As regards aid for land consolidation, aid for information actions to make information available to an undefined number of beneficiaries in agricultural and forestry sectors, promotion measures in the form of publications aimed at raising awareness of agricultural products among the wider public, aid to make good the damage caused by adverse climatic event which can be assimilated to a natural disaster and other adverse climatic events, 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 or plant pests, aid to cover the costs of the removal and destruction of fallen stock, aid to make good the damage caused by protected animals, aid for disadvantages related to Natura 2000, aid for research, development and innovation, aid to make good the damage caused by natural disasters and aid for investments in favour of conservation of cultural and natural heritage on the agricultural holding and in forests, aid for the restoration of damage of forests, aid for the participation of farmers in quality schemes for cotton and foodstuffs and aid for undertakings participating in or benefitting from CLLD projects and EIP Operational Groups projects, the existence of an incentive effect should not be required or should be deemed to be present if the specific conditions set out for those categories of aid in this Regulation are fulfilled.
- (28) With a view to ensuring that aid is proportionate and limited to the amount necessary, the maximum aid amounts should, whenever possible, be expressed in terms of aid intensities in relation to a set of eligible costs. Where the maximum aid intensity cannot be set, because the eligible costs cannot be identified or in order to provide simpler instruments for small amounts, maximum aid amounts defined in nominal terms should be set out in order to ensure proportionality of the aid. The aid intensity and the maximum aid amounts should be fixed, at a level that minimises distortions of competition in the aided sector while appropriately addressing the objective of facilitating the development of the economic activities of the beneficiaries in the agricultural sector, the rural areas, or the forestry sector. In the interests of coherence with Union-financed rural development interventions, the ceilings should be harmonised with those set out in Regulation (EU) 2021/2115 insofar as this is in accordance with the State aid principles resulting from the application of Article 107(3), point (c), of the Treaty.
- (29) For the calculation of the aid intensity, only eligible costs should be included. This Regulation should not exempt aid which exceeds the relevant aid intensity as a result of including ineligible costs. The identification of the eligible costs should be supported by clear, specific and contemporary documentary evidence. The calculation

<sup>(9)</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

should be based on amounts before any deduction of tax or other charges. Aid payable in several instalments should be discounted to its value on the date of granting the aid. The eligible costs should also be discounted to their value on the date of granting the aid. The interest rate to be used for discounting purposes and for calculating the amount of aid in the case of aid which does not take the form of a grant should be, respectively, the discount rate and the reference rate applicable on the date of granting the aid, as laid down in the Communication from the Commission on the revision of the method for setting the reference and discount rates<sup>(10)</sup>. Where aid is granted in a form other than a grant, the aid amount should be expressed as gross grant equivalent. Where aid is granted by means of tax advantages, aid tranches should be discounted on the basis of the discount rates applicable on the various dates when the tax advantages become effective. The use of aid in the form of repayable advances should be promoted, since such risk-sharing instruments are conducive to a strengthened incentive effect of the aid. It is therefore appropriate to establish that where aid is granted in the form of repayable advances the applicable aid intensities laid down in this Regulation may be increased.

- (30) In the case of tax advantages on future taxes, the applicable discount rate and the exact amount of the aid tranches may not be known in advance. In such a case, Member States should set in advance a cap on the discounted value of the aid respecting the applicable aid intensity. Subsequently, when the amount of the aid tranche at a given date becomes known, discounting can take place on the basis of the discount rate applicable at that time. The discounted value of each aid tranche should be deducted from the overall amount of the cap ('capped amount').
- (31) To determine whether the individual notification thresholds and the maximum aid intensities or the maximum aid amounts laid down in this Regulation are respected, the total amount of the State aid for the aided activity or project should be taken into account. Moreover, this Regulation should specify the circumstances under which different categories of aid may be cumulated. Aid exempted from notification by this Regulation and any other compatible aid exempted under other Regulation or approved by the Commission may be cumulated as long as those measures concern different identifiable eligible costs. Where different sources of aid are related to the same – partly or fully overlapping – identifiable eligible costs, cumulation should be allowed up to the highest aid intensity or aid amount applicable to that aid under this Regulation. This Regulation should also set out special rules for cumulation of aid with and without identifiable eligible costs, and for cumulation with *de minimis* aid. *De minimis* aid is often not granted for or attributable to specific identifiable eligible costs. In such a case it should be possible to freely cumulate *de minimis* aid with State aid exempted under this Regulation. Where, however, *de minimis* aid is granted for the same identifiable eligible costs as State aid exempted under this Regulation, cumulation should only be allowed up to the maximum aid intensity as set out in Chapter III of this Regulation.
- (32) 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 Member States, does not constitute State aid. Where such Union funding is combined with State aid, only the latter should be considered for determining whether notification thresholds and maximum aid intensities or maximum aid amounts are respected, provided the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rate laid down in the applicable rules of Union law.
- (33) State aid within the meaning of Article 107(1) of the Treaty is, in principle, prohibited. However under, Article 107(2) and (3) of the Treaty the Commission shall, or may respectively, allow under certain conditions Member States to grant State aid. It is therefore important that for all parties to be able to check whether an aid is granted in compliance with the applicable rules. Transparency of State aid is, therefore, essential for the correct application of Treaty rules and leads to better compliance, greater accountability, peer review and ultimately more effective public spending. To ensure transparency, Member States should be required to establish comprehensive State aid websites, at regional or national level, setting out summary information about each aid measure exempted under this Regulation. That obligation should be a condition for the compatibility of the individual aid with the internal market. Following the standard practice regarding publication of information in Directive (EU) 2019/1024 of the European Parliament and of the Council<sup>(11)</sup>, a standard format should be used which allows the information to be searched, downloaded and easily published on the internet. The links to the State aid

<sup>(10)</sup> OJ C 14, 19.1.2008, p. 6.

<sup>(11)</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).



websites of all the Member States should be published on the Commission's website. In accordance with Article 3(2) of Regulation (EU) 2015/1588, summary information on each aid measure exempted under this Regulation should be published on the website of the Commission.

- (34) As regards the publication of information on individual aid awards it is appropriate to set thresholds above which that publication may be considered proportionate taking into account the importance of the aid. The Commission's experience shows that for the period 2014-2019, with a publication threshold set at EUR 60 000 for primary agricultural production, around 30 % of the aids granted were subject to publication. Therefore, in order to increase the effectiveness of transparency requirements, and since the average amount of investment aid for primary production granted for the period 2014-2019 is estimated at around EUR 17 000, it is appropriate to lower the publication threshold to EUR 10 000 for primary agricultural production.
- (35) To ensure effective monitoring, it is appropriate in accordance with Article 3(2) of Regulation (EU) 2015/1588, to establish a standard format in which Member States should provide the Commission with summary information whenever, in accordance with this Regulation, an aid scheme is implemented or an individual aid is granted outside any aid scheme. Moreover, it is appropriate in accordance with Article 5 of Commission Regulation (EC) No 794/2004 <sup>(12)</sup> and Article 3(4) of Regulation (EU) 2015/1588 to establish rules concerning annual reporting on aid exempted from the notification requirement of Article 108(3) of the Treaty in accordance with the conditions laid down in this Regulation, including specific requirements for certain categories of aid, to be submitted to the Commission by Member States.
- (36) In view of the wide availability of the necessary technology, the summary information and the annual report should be in computerised format and transmitted to the Commission.
- (37) Given the limitation period for the recovery of aid established by Article 17 of Regulation (EU) 2015/1589, it is appropriate in accordance with Article 3(3) of Regulation (EU) 2015/1588 to establish rules concerning the records that Member States should keep regarding the aid exempted from the notification requirement of Article 108(3) of the Treaty by this Regulation.
- (38) To reinforce the effectiveness of compatibility conditions set out in this Regulation, it should be possible for the Commission to withdraw the benefit of the block exemption for the future aid measures in the event of failure to comply with these requirements. The Commission should be able to restrict the withdrawal of the benefit of the block exemption to certain types of aid, certain beneficiaries or aid measures adopted by certain authorities, where non-compliance with this Regulation affects only a limited group of measures or certain authorities. Such a targeted withdrawal should provide a proportionate remedy directly linked to the identified non-compliance with this Regulation. Where an aid is not notified and does not fulfil all the conditions to be exempted from notification, it constitutes an unlawful aid, which the Commission will examine in the framework of the relevant procedure as set out in Regulation (EU) 2015/1589 for non-notified aid. In case of failure to fulfil the requirements of Chapter II, the withdrawal of the benefit of the block exemption in respect of the future aid measures does not affect the fact that the past measures complying with this Regulation were block exempted.
- (39) SMEs play a decisive role in job creation and, more generally, act as a factor of social stability and drive the economy. However, their development may be limited by market failures, leading to SMEs suffering from typical handicaps. SMEs often have difficulty in obtaining capital or loans, given the risk-averse nature of certain financial markets and the limited collateral that they may be able to offer. Their limited resources may also restrict their access to information, notably as regards new technology and potential markets. To facilitate the development of the economic activities of SMEs, this Regulation should therefore exempt certain categories of aid in favour of SMEs from the notification requirement of Article 108(3) of the Treaty.
- (40) To eliminate differences that might give rise to distortions of competition and to facilitate coordination between different Union and national initiatives concerning SMEs as well as for reasons of administrative clarity and legal certainty, the definition of SME used for the purpose of this Regulation should be based on the definitions laid down in Commission Recommendation 2003/361/EC <sup>(13)</sup>.

<sup>(12)</sup> 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).

<sup>(13)</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (41) To ensure coherence with the Common Agricultural Policy and to simplify the rules based on the Commission's experience of the application of the 2014 Guidelines, it is appropriate to exempt, various categories of aid in favour of undertakings active in the agricultural and forestry sectors from the notification requirement of Article 108(3) of the Treaty, without prejudice to the application of any substantive rules in force.
- (42) It is also appropriate to consider that the agriculture and forestry sectors are specifically exposed to adverse climatic events, animal diseases, plant pests and damages caused by protected animals. Experience shows that these sectors are more vulnerable to such events and that farmers and foresters suffer considerable damage from these events. Aid measures to make good such damages are therefore considered to be a suitable tool to help undertakings recover from such damages and remain in business. In that way, they ensure the development of economic activities and the fulfilment of environmental functions of ecosystems in the agriculture and forestry.
- (43) In the agricultural sector, exemptions should apply to aid for SMEs for investments in the production, processing and marketing of agricultural products, land consolidation, relocation of farm buildings, business start-ups, young farmers and small farms, producer groups, quality schemes, knowledge transfer and information actions, advisory services, promotion activities, farm replacement services as well as risk and crisis management related to adverse climatic events, animal diseases, plant pests, damage caused by protected animals, aid for payment of insurance premiums, for financial contributions to mutual funds, for conservation of genetic resources, for animal welfare and for cooperation. The exemptions should also apply to undertakings of all sizes for aid for environmental protection in agriculture, aid for investments in favour of conservation of cultural and natural heritage located on agricultural holdings and in forests, aid to make good the damage caused by natural disasters in the agricultural sector as well as aid for research, development and innovation in the agricultural and forestry sectors and aid in favour of forestry.
- (44) Exemptions should apply to aid for forestry and certain non-agricultural activities in rural areas that are co-financed as rural development interventions under the EAFRD as well as to aid for knowledge transfer and information actions, research, development and innovation, including through the use of EU Space-based data and services and land consolidation.
- (45) Because of the risk of distortions of competition resulting from targeted investment aid in the sector of primary agricultural production, investment aid, exempted from the notification requirement of Article 108(3) of the Treaty, should not be limited to a specific agricultural product. This condition should not prevent a Member State from excluding certain agricultural products from the scope of a particular aid, where no normal market outlets can be found or where there is overcapacity in the internal market. Moreover, aid to certain types of investment should not qualify per se for exemption from the notification requirement of Article 108(3) of the Treaty under this Regulation.
- (46) To ensure the appropriate balance between minimising distortions of competition and promoting energy and resource efficiency, in case of investments in agricultural holdings linked to primary agricultural production, aid should be granted only for investment linked to the production on farm-level of biofuels or energy from renewable sources and only where that production does not exceed the average annual consumption of fuel or energy of the farm. In such cases, aid to biofuels should only be covered in so far as it is granted for sustainable biofuels in accordance with Directive (EU) 2018/2001 of the European Parliament and of the Council<sup>(14)</sup>.
- (47) In order to incentivise the shift towards the production of more advanced forms of biofuels, as foreseen by the horizontal environmental and energy State aid rules, aid for food based biofuels should be excluded from this Regulation in case of aid for investments in connection with the processing of agricultural products.
- (48) Regulation (EU) 2015/1588 enables the Commission, to declare by means of regulations, certain categories of aid compatible with the internal market when the Commission has sufficient experience to define general compatibility criteria. Given the experience gained during the 2014 to 2021 period in the assessment of compatibility of numerous State aids in light of the 2014 Guidelines, the Commission may now make use of its powers to exempt from the notification requirement State aid for basic services and infrastructure in rural areas co-financed by the

<sup>(14)</sup> 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).

EAFRD, for cooperation, for measures to prevent and make good the damage caused by protected animals, for conservation of genetic resources in agriculture, for animal welfare commitments, for compensating disadvantages related to Natura 2000 areas, for agri-environmental-climate commitments as well as for organic farming.

- (49) Moreover, as regards the forestry sector, the Commission may, based on its experience under the 2014 Guidelines, exempt from the notification requirement measures that are financed exclusively from national funds without prejudice to the application of any substantive rules in force.
- (50) In the 2014 to 2020 period and in application of the 2014 Guidelines, the Commission approved 52 aid schemes regarding compensation for damages caused by protected animals to the agricultural sector. Damages caused by protected animals require urgent action by the granting authorities to restore the means of production and the economic activity as rapidly as possible so that the undertakings concerned may remain in business and in that way to ensure the development of economic activities. The Commission's experience shows that this aid does not typically give rise to any significant distortion of competition in the internal market given its compensatory nature and the existence of clear criteria for compatibility with the internal market. It is therefore appropriate to exempt this aid from the State aid notification requirement.
- (51) Aid to make good the damages caused by protected animals should be available to SMEs active in the primary agricultural production. The conditions to exempt aid to make good the damages caused by protected animals should follow the already established practice for other compensatory aids such as aids compensating for the loss of animals or plants destroyed on the basis of the market value, paying for the veterinary or labour costs and compensating the material damage to the farm equipment, machinery and farm buildings and stocks.
- (52) In the 2014 to 2020 period and in application of the 2014 Guidelines, the Commission approved four aid schemes for conservation of genetic resources in agriculture. The Commission's experience shows that this aid does not typically give rise to any significant distortion of competition in the internal market, while at the same time contributing to the public policy objective of biodiversity conservation. It is therefore appropriate to exempt this aid from the State aid notification requirement.
- (53) Aid towards specific sustainable farming practices, such as animal welfare, agri-environmental-climate and organic farming commitments bears only limited risk of competition distortion. In order to better respond to the societal demands on high-quality food produced in a sustainable way, it should be possible for the Commission to exempt such aid measures from the State aid notification requirement.
- (54) At the same time, it is appropriate for such measures to set maximum amounts of aid per unit, based on the case experience gained under the 2014 Guidelines. Around 64 % of all measures with agri-environmental-climate commitments (which represent the highest share of measures with voluntary commitments) notified in the July 2014 to March 2020 period exceeded the maximum amounts per hectare and were thus subject to a detailed analysis to determine whether they were justified. The current inflation and rise in input prices, this trend is likely to continue. The maximum amounts per unit set under the 2014 Guidelines are therefore considered appropriate thresholds to block-exempt measures involving voluntary commitments in favour of the environment, the climate or animal welfare.
- (55) In the 2014 to 2020 period, and in application of the 2014 Guidelines, the Commission approved 21 aid schemes for animal welfare commitments under the 2014 Guidelines. The Commission's experience shows that this aid does not typically give rise to any significant distortion of competition in the internal market given its compensatory nature and the existence of clear criteria for compatibility with the internal market. It is therefore appropriate to exempt this aid from the State aid notification requirement.
- (56) The Commission has applied Articles 107 and 108 of the Treaty to aid for disadvantages related to Natura 2000 areas in the agricultural sector, to aid for agri-environmental-climate commitments and to aid for organic farming in the framework of the 2014 Guidelines. In the period from 2014 to 2020, the Commission approved 10 aid schemes linked to Natura 2000 areas in agriculture, 65 aid schemes for agri-environmental-climate commitments and 5 aid schemes for organic farming. The Commission's experience shows that these aids, in particular below certain thresholds, do not typically give rise to any significant distortion of competition, while at the same time contributing to achieving the public policy objective of environmental protection. It is therefore appropriate that the Commission should make use of the powers conferred on it by Regulation (EU) 2015/1588, as regards aid for disadvantages related to Natura 2000 in the agricultural sector, aid for agri-environmental-climate commitments and to aid for organic farming.

- (57) The exemption of aid for disadvantages related to Natura 2000 in the agricultural sector, aid for agri-environmental-climate commitments and aid for organic farming should apply only to undertakings active in the primary agricultural production sector.
- (58) Projects funded by the European Innovation Partnership for agricultural productivity and sustainability (EIP) lead to innovation in the farming sector and in rural areas. State aid granted to undertakings participating in EIP Operational Group projects covered by Article 127 of Regulation (EU) 2021/2115 has a minor impact on competition, in particular, in view of the positive role the aid plays for sharing knowledge, especially for local and agricultural communities, the collective nature of the aid, and its relatively small scale. The nature of these projects is integrated. These projects are usually multi-actor and multi-sector, which can lead to certain difficulties for their classification under State aid rules. Given the local nature of individual EIP Operational Group projects, selected on the basis of a multi-annual local development strategy determined and implemented by public-private partnership and their orientation to community, social, environmental and climate interest, this Regulation should address certain difficulties faced by EIP Operational Group projects to facilitate their compliance with State aid rules.
- (59) Given the limited effect on trade and competition of small amounts of aid granted to undertakings benefitting, directly or indirectly, from EIP Operational Group projects, simple rules for cases where the aggregate amount of aid per project does not exceed a certain ceiling should be laid down.
- (60) The Commission has applied Articles 107 and 108 of the Treaty to undertakings active in the forestry sector in numerous decisions, in particular in the framework of the 2014 Guidelines. In the period from 2014 to 2020, the Commission approved more than 200 aid schemes in favour of the forestry sector in accordance with those Guidelines. According to the Commission's experience, forestry aid measures have not created any significant distortion of competition in the internal market given the existence of clear compatibility criteria. In the light of that experience, and for the sake of simplification and procedural economy, it should therefore be possible to exempt aid measures in favour of the forestry sector from the notification obligation irrespective of whether they are co-financed by the EAFRD. It is therefore appropriate that the Commission should make use of the powers conferred on it by Regulation (EU) 2015/1588 for aid for afforestation and creation of the woodland; aid for agroforestry systems; aid for the prevention and restoration of the damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests and catastrophic events; aid for investments improving the resilience and environmental value of forest ecosystems; aid for area-specific disadvantages resulting from certain mandatory requirements as defined in Article 3 of Council Directive 92/43/EEC and in Article 3 of Directive 2009/147/EC of the European Parliament and of the Council<sup>(15)</sup>; aid for forest-environmental-climate services and forest conservation; aid investments in infrastructure related to the development, modernisation or adaptation of the forestry sector; aid for investments in forestry technologies and in processing, in mobilising and in marketing of forestry products; aid for conservation of genetic resources in forestry, start-up aid for producer groups and organisations in the forestry sector, aid for forestry land consolidation and aid for cooperation in the forestry sector.
- (61) To incentivise grouped initiatives in the forestry sector, the Commission has applied Articles 107 and 108 of the Treaty to aid in favour of start-up aid for producer groups and organisations in the forestry sector. In the period from 2014 to 2020, the Commission approved such aid in five cases. In the agricultural sector, such aid was already exempted from notification under Regulation (EU) No 702/2014. It is therefore appropriate to exempt start-up aid for producer groups and organisations in the forestry sector from the State aid notification requirement.
- (62) Economic diversification and the creation of new economic, including circular bioeconomy activities are essential for the development and competitiveness of rural areas and for the SMEs which are the backbone of the Union rural economy. Regulation (EU) 2021/2115 provides for measures to support non-agricultural business development in rural areas aimed at employment promotion, the setting up of quality jobs in rural areas, the maintenance of already existing jobs, a reduction of seasonality fluctuations in employment, development of non-agricultural sectors outside agriculture and food processing while fostering at the same time business integration and local inter-sectoral links.

<sup>(15)</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

- (63) To ensure coherence with Regulation (EU) 2021/2115 and to achieve simplification of the rules to obtain State aid clearance for the co-financed part and the additional national financing of the CAP Strategic Plan, the notification requirement should not apply to various categories of aid in favour of SMEs active in rural areas, encompassing aid for basic services and infrastructures, for business start-ups, for cooperation, new participation of farmers in quality schemes for cotton and foodstuff and information and promotion measures in favour of foodstuffs covered by a quality scheme. Such aid measures should be identical to the underlying rural development interventions and the exempted aid should only be granted pursuant to and in conformity with the CAP Strategic Plan of the Member State concerned.
- (64) The Commission has applied Articles 107 and 108 of the Treaty to aid in favour of basic services and infrastructure in rural areas and for cooperation in rural areas in numerous cases, in particular in the framework of the 2014 Guidelines. In the period from 2014 to 2020, the Commission has approved 27 aid schemes relating to basic services and infrastructure in rural areas and 28 aid schemes relating to cooperation in rural areas. In the Commission's experience, aid measures in favour of rural areas have not had any significant distortion of competition in the internal market, given the existence of clear compatibility criteria, and given that the aid has contributed to economic diversification and the creation of new economic activities. It is therefore appropriate to exempt aids in favour of basic services and infrastructure in rural areas and aid for cooperation in rural areas from the State aid notification requirement.
- (65) However, aid in favour of basic services and infrastructure in rural areas and aid for cooperation in rural areas should be exempted from the notification requirement only if it forms part of a CAP Strategic Plan validated by the Commission in the framework of Regulation (EU) 2021/2115.
- (66) State aid granted to SMEs participating in community-led local development ('CLLD') projects, referred to in Article 31 of Regulation (EU) 2021/1060 of the European Parliament and of the Council<sup>(16)</sup> and designated as 'LEADER' under Regulation (EU) 2021/2115, has little impact on competition, in particular, in view of the positive role the aid plays for sharing knowledge, especially for local and agricultural communities, as well as the often collective nature of the aid, and its relatively small scale. The nature of these projects is integrated, multi-actor and multi-sector, which can lead to certain difficulties for their classification under State aid law. Given the local nature of individual CLLD projects, selected on the basis of a multi-annual local development strategy determined and implemented by public-private partnership and their orientation to community, social, environmental and climate interest, this Regulation should address certain difficulties faced by CLLD projects in order to facilitate their compliance with State aid rules. Municipalities, by their very nature, fall outside the scope of the SME definition (public shareholding). However, municipalities often play a vital role in the organisation and realisation of CLLD projects. Where a CLLD project is carried out in favour of one of the objectives set out in Article 1 of Regulation (EU) 2015/1588, it should therefore be possible to block-exempt also aid to municipalities in the context of such project.
- (67) Given the limited effect on trade and competition of small amounts of aid granted to SMEs benefitting, directly or indirectly from CLLD projects, simple rules for cases where the aggregate amount of aid per project does not exceed a certain ceiling should be laid down. This should also apply to municipalities benefitting directly or indirectly from CLLD projects, which pursue one of the objectives set out in Article 1 of Regulation (EU) 2015/1588.
- (68) In the case of several categories of aid, such as research, knowledge transfer and information including through EU Space-based data and services, advisory services, farm replacement services, promotion and prevention and eradication of animal diseases and plant pests, the aid is granted to the final aid beneficiaries indirectly, in kind, in the form of subsidized services. In such cases, the exempted aid should be paid to the provider of the service or activity in question.
- (69) In accordance with Article 4(1) of Regulation (EU) 2015/1588, it is necessary to periodically revise State aid policy. That is why the period of application of this Regulation should be limited. It is therefore appropriate to lay down transitional provisions, including the rules on an adjustment period at the end of validity of this Regulation for exempted aid schemes. Such rules should give Member States time to adapt to the new regime,

<sup>(16)</sup> 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).

HAS ADOPTED THIS REGULATION:

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CHAPTER I

**Common provisions**

Article 1

**Scope**

1. This Regulation shall apply to the following categories of aid:
  - (a) aid in favour of micro, small and medium sized enterprises (SMEs):
    - (i) active in the agricultural sector, namely primary agricultural production, the processing of agricultural products and the marketing of agricultural products, with the exception of Articles 14, 15, 16, 18, 23 and 25 to 31, which shall only apply to SMEs active in primary agricultural production;
    - (ii) active in non-agricultural activities in rural areas falling outside the scope of Article 42 of the Treaty, insofar as such aid is granted in accordance with Regulation (EU) 2021/2115 and is either co-financed by the European Agricultural Fund for Rural Development ('EAFRD') or granted as additional national financing for such co-financed measures. By derogation, this Regulation shall apply to aid to municipalities benefiting directly or indirectly from CLLD projects, pursuant to Articles 60 and 61 of this Regulation;
  - (b) aid for environmental protection in agriculture as referred to in Articles 33, 34 and 35, which shall only apply to undertakings active in primary agricultural production;
  - (c) aid for investments for the conservation of cultural and natural heritage located on agricultural holdings and in forests;
  - (d) aid in favour of making good the damage caused by natural disasters in the agricultural sector;
  - (e) aid for research, development and innovation in the agricultural and forestry sectors;

- (f) aid in favour of forestry.
2. Where Member States deem it appropriate, they may choose to grant aid referred to in paragraph 1, points (a), (e) and (f), in compliance with Commission Regulation (EU) No 651/2014 <sup>(17)</sup>.
3. This Regulation shall not apply to:
- (a) aid schemes referred to in Articles 14, 17, 41 to 44 and 46, aid schemes referred to in Articles 49 and 50, if they fulfil the conditions of Article 12, from six months after their entry into force. However, the Commission may decide that this Regulation shall continue to apply to an aid scheme for longer than six months, after having assessed the relevant evaluation plan notified by the Member State to the Commission. When submitting the evaluation plans, Member States shall also submit all the information necessary for the Commission to carry out an assessment of the evaluation plans and to take a decision;
  - (b) any alterations of schemes referred to in point (a) other than modifications which do not affect the compatibility of the aid scheme under this Regulation or do not significantly affect the content of the approved evaluation plan;
  - (c) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to export activity;
  - (d) aid contingent upon the use of domestic over imported goods.
4. This Regulation shall not apply to:
- (a) aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by the same Member State illegal and incompatible with the internal market, with the exception of:
    - (i) aid schemes to make good the damage caused by natural disasters in accordance with Article 37;
    - (ii) aid schemes for community-led local development ('CLLD') or European Innovation Partnership for agricultural productivity and sustainability ('EIP') Operational Group projects in accordance with Articles 40 and 61;
  - (b) ad hoc aid to an undertaking referred to in point (a).
5. This Regulation shall not apply to aid to undertakings in difficulty with the exception of aid granted:
- (a) for information actions in the agricultural and forestry sectors in accordance with Articles 21 and 47;
  - (b) for promotion measures in the form of publications aimed at raising awareness of agricultural products among the wider public in accordance with Article 24(2), point (b);
  - (c) to compensate for the costs of the prevention, control and eradication of animal diseases and plant pests in accordance with Article 26(8) and (9);
  - (d) to cover the costs of the removal and destruction of fallen stock in accordance with Article 27(2), points (c), (d) and (e);
  - (e) for disadvantages related to Natura areas 2000 in accordance with Article 33;
  - (f) to make good the damage caused by natural disasters in accordance with Article 37;
  - (g) for undertakings participating in or benefitting from CLLD projects and EIP Operational Group projects, in accordance with Articles 40 and 61;
  - (h) in the following cases, provided that the undertaking became an undertaking in difficulty due to losses or damages caused by the event in question:
    - (i) to make good the damage caused by an adverse climatic event which can be assimilated to a natural disaster in accordance with Article 25;
    - (ii) to make good the damage caused by animal diseases and plant pests in accordance with Article 26(9) and Article 26(10);
    - (iii) to make good the damage caused by protected animals in accordance with Article 29;

<sup>(17)</sup> 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).

(iv) for the restoration of damage to forests in accordance with Article 43(2), point (d).

6. This Regulation shall not apply to aid which entails, by itself, by the conditions attached to it or by its financing method, a non-severable violation of Union law, in particular:

- (a) aid where the grant of aid is subject to the obligation for the beneficiary to use nationally produced goods or national services;
- (b) aid restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.

7. This Regulation shall not apply to aid in favour of agricultural products within the meaning of Annex 1 to the WTO Agreement on Agriculture <sup>(18)</sup>, which constitutes an export subsidy as defined by that Agreement. Likewise, it shall not apply to 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 <sup>(19)</sup>, if it does not comply with the relevant requirements of paragraph 15 of that Decision on maximum repayment term and self-financing.

## Article 2

### Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) 'ad hoc aid' means aid not granted on the basis of an aid scheme;
- (2) '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 or four-year period or a three-year average based on the preceding five- or eight-year period, excluding the highest and the lowest entry; in the case of forestry, more than 20 % of the forestry potential;
- (3) 'advice' means complete advice given in the framework of one and the same contract;
- (4) '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;
- (5) '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;
- (6) 'agricultural holding' means a unit comprising of land, premises and facilities used for primary agricultural production;
- (7) 'agricultural product' means the products listed in Annex I to the Treaty, except the fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council <sup>(20)</sup>;
- (8) 'agricultural sector' means all undertakings active in primary agricultural production, processing and marketing of agricultural products;
- (9) 'agroforestry systems' means land use systems where trees are grown in combination with agriculture on the same land;
- (10) 'aid' means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;
- (11) 'aid granted in the framework of a CAP Strategic Plan' means support granted in accordance with Regulation (EU) 2021/2115 either as aid co-financed by the EAFRD or as additional national financing to such co-financed aid;
- (12) 'aid intensity' means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;

<sup>(18)</sup> OJ L 336, 23.12.1994, p. 22.

<sup>(19)</sup> WT/MIN(15)/45 – WT/L/980.

<sup>(20)</sup> 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).



- (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 which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and 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 the following:
- (a) an animal population;
  - (b) an establishment, zone, compartment, means of transport or any other facilities, premises or location;
- (16) ‘breeding book’ means book as provided for in Article 2, point (12), of Regulation (EU) 2016/1012 of the European Parliament and of the Council <sup>(21)</sup>;
- (17) ‘CAP Strategic Plan’ means CAP Strategic Plan as referred to in Article 1(1), point (c), of Regulation (EU) 2021/2115;
- (18) ‘capitalised works’ means works, undertaken by a farmer personally or by the farmer’s workers on the farm, that create an asset;
- (19) ‘carbon farming schemes’ means aid schemes related to land management practices resulting in the increase of carbon storage 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 of forest structures, eventually causing important economic damage to the forest sectors;
- (21) ‘date of granting the aid’ means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime;
- (22) ‘control and eradication measures’ means measures regarding animal diseases for which a competent authority of the Member State has formally recognised an outbreak, or regarding plant pests or invasive alien species for which a competent authority has formally acknowledged their presence;
- (23) ‘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 of 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;
- (24) ‘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;
- (25) ‘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;
- (26) ‘fiscal successor scheme’ means a scheme in the form of tax advantages which constitutes an amended version of a previously existing scheme in the form of tax advantages and which replaces it;

<sup>(21)</sup> 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).

- (27) 'fixed costs arising from participation in quality scheme' means the costs incurred for entering a supported quality scheme and the annual contribution for participating in that quality scheme, including, where necessary, expenditure on checks required to verify compliance with the specifications of the quality scheme;
- (28) 'food based biofuel' means a biofuel produced from food and feed crops, as defined in Directive (EU) 2018/2001;
- (29) 'foodstuffs' means foodstuffs which are not agricultural products and which are listed in Annex I to Regulation (EU) No 1151/2012 of the European Parliament and of the Council <sup>(22)</sup>;
- (30) '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;
- (31) 'individual aid' means:
- (a) ad hoc aid;
  - (b) awards of aid to individual beneficiaries on the basis of an aid scheme;
- (32) 'intangible assets' means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;
- (33) 'investments to comply with a Union standard' means investments made to comply with a Union standard after the expiry of the transitional period provided for in Union legislation;
- (34) 'large enterprises' means undertakings not fulfilling the criteria laid down in Annex I;
- (35) 'marketing of agricultural products' means holding or displaying 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 farmer to final consumers is considered as marketing of agricultural products if it takes place in separate premises or facilities reserved for that purpose;
- (36) 'mutual funds' means a scheme accredited by a Member State in accordance with its national law for affiliated farmers to insure themselves, whereby compensation payments are made to affiliated farmers who experience economic losses;
- (37) 'Natura 2000 areas' means special agriculture or forest areas as referred to in Article 3 of Directive 92/43/EEC and in Article 3 of Directive 2009/147/EC;
- (38) 'natural disasters' means earthquakes, avalanches, landslides and floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin;
- (39) 'non-productive investment' means investment which does not lead to a significant increase in the value or profitability of the holding;
- (40) '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 processing capacity is 20,000 m<sup>3</sup> roundwood input for sawmilling per year;
- (41) 'other adverse climatic events' means unfavourable weather conditions which do not fall within the definition of adverse climatic event which can be assimilated to a natural disaster;
- (42) 'outermost regions' means the regions referred to in Article 349, first paragraph, of the Treaty;
- (43) 'plant pest' means: any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products;
- (44) '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;
- (45) '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;

<sup>(22)</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

- (46) 'producer group or organisation' means a group or organisation set up for the purpose of one of the following:
- (a) adapting the production and output of producers who are members of such producer groups or organisations to market requirements;
  - (b) jointly placing goods on the market, including the 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, the use of environmentally sound cultivation practices and production techniques, sound animal welfare practices and techniques;
- (47) 'protected animal' means any animal protected either by Union or by national legislation, including animal species for which national legislation provides for specific rules to preserve the population;
- (48) 'regional aid maps' means the list of areas designated by a Member State in line with the conditions laid down in the Guidelines on regional State aid <sup>(23)</sup> and approved by the Commission;
- (49) '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;
- (50) 'research and knowledge-dissemination organisation' means an entity, irrespective of its legal status or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development, or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer;
- (51) 'smaller Aegean islands' means the smaller islands referred to in Article 1(2) of Regulation (EU) No 229/2013 of the European Parliament and of the Council <sup>(24)</sup>;
- (52) 'SME' or 'micro, small and medium-sized enterprises' means undertakings fulfilling the criteria laid down in Annex I;
- (53) '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;
- (54) '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;
- (55) 'tangible assets' means assets consisting of land, buildings and plant, machinery and equipment;
- (56) '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;
- (57) '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 for sampling and laboratory testing in accordance with Chapter C of Annex X to Regulation (EC) No 999/2001 of the European Parliament and of the Council <sup>(25)</sup>;
- (58) '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;

<sup>(23)</sup> Guidelines on regional State aid (OJ C 153, 29.4.2021, p. 1).

<sup>(24)</sup> Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

<sup>(25)</sup> Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1).

- (59) 'undertaking in difficulty' means an undertaking fulfilling the criteria laid down in Article 2, point (18), of Regulation (EU) No 651/2014;
- (60) '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; however, 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;
- (61) '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.

### Article 3

#### Conditions for exemption

Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be compatible with the internal market within the meaning of Article 107(2) or (3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that such aid fulfils all the conditions laid down in Chapter I of this Regulation, as well as the specific conditions for the relevant category of aid laid down in Chapter III of this Regulation.

### Article 4

#### Notification thresholds

1. This Regulation shall not apply to any individual aid, the gross grant equivalent of which exceeds the following thresholds:
- (a) aid for investments in agricultural holdings linked to primary agricultural production as referred to in Article 14: EUR 600 000 per undertaking per investment project;
  - (b) aid for investments concerning the relocation of a farm building resulting in the modernisation of facilities or in an increase in production capacity as referred to in Article 16(4): EUR 600 000 per undertaking per investment project;
  - (c) aid for investments in connection with the processing of agricultural products and the marketing of agricultural products as referred to in Article 17: EUR 7,5 million per undertaking per investment project;
  - (d) aid for animal welfare commitments, as referred to in Article 31: EUR 500 per livestock unit per year;
  - (e) aid for disadvantages related to Natura 2000 areas as referred to in Article 33: EUR 500 per hectare per year in the initial period of maximum five years and EUR 200 per hectare per year thereafter;
  - (f) aid for agri-environmental-climate commitments as referred to in Article 34: EUR 600 per hectare per year for annual crops, EUR 900 per hectare per year for specialised perennial crops and EUR 450 per hectare per year for other land uses;
  - (g) aid for organic farming as referred to in Article 35: EUR 600 per hectare per year for annual crops, EUR 900 per hectare per year for specialised perennial crops and EUR 450 per hectare per year for other land uses;
  - (h) aid for investments in favour of the conservation of cultural and natural heritage located on agricultural holdings or in forests as referred to in Article 36: EUR 600 000 per undertaking per investment project;
  - (i) aid for research and development in the agricultural and forestry sectors as referred to in Article 38: EUR 7,5 million per project;
  - (j) aid for costs incurred by undertakings participating in EIP Operational Group projects as referred to in Article 39: EUR 2 million per undertaking, per project;
  - (k) limited amounts of aid to undertakings benefitting from EIP Operational Group projects as referred to in Article 40: EUR 500 000 per EIP Operational Group project;
  - (l) aid for afforestation and the creation of woodland as referred to in Article 41: EUR 7,5 million per establishment project;
  - (m) aid for agroforestry systems as referred to in Article 42: EUR 7,5 million per agroforestry system establishment project;

- (n) aid for investments improving the resilience and environmental value of forest ecosystems as referred to in Article 44: EUR 7,5 million per investment project;
  - (o) aid for area-specific disadvantages resulting from certain mandatory requirements as referred to in Article 45: EUR 500 per hectare per year in the initial period not exceeding five years and EUR 200 per hectare per year thereafter;
  - (p) aid for forest-environmental-climate services and forest conservation as referred to in Article 46: EUR 200 per hectare per year, with exception of aid referred to in Article 46, paragraph 8;
  - (q) aid for advisory services in the forestry sector as referred to in Article 48: EUR 200 000 per undertaking and per year;
  - (r) aid for investments in infrastructure related to the development, modernisation or adaptation of the forestry sector as referred to in Article 49: EUR 7,5 million per investment project;
  - (s) aid for investments in forestry technologies and in processing, in mobilising and in marketing of forestry products as referred to in Article 50: EUR 7,5 million per investment project;
  - (t) aid for investments for basic services and infrastructure in rural areas as referred to in Article 55: EUR 10 million per investment project;
  - (u) aid for costs incurred by SMEs participating in CLLD projects, designated as LEADER local development under EAFRD referred to in Article 60: EUR 2 million per undertaking, per project;
  - (v) limited amount of aid to SMEs benefitting from CLLD projects as referred to in Article 61: EUR 200 000 per CLLD project.
2. The thresholds set out in paragraph 1 shall not be circumvented by the artificial splitting up of the aid schemes or aid projects.

#### Article 5

#### Transparency of aid

1. This Regulation shall apply only to transparent aid.
2. Aid shall be considered to be transparent if it is possible to calculate precisely the gross grant equivalent *ex ante* without need to undertake a risk assessment.
3. For the purpose of this Regulation, the following forms of aid shall be considered to be transparent aid:
  - (a) aid comprised in grants, interest rate subsidies and subsidised services;
  - (b) aid comprised in loans, where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant;
  - (c) aid comprised in guarantees where one of the following applies:
    - (i) the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice;
    - (ii) before the implementation of the aid, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Notice on Guarantees, following notification of that methodology to the Commission under any State aid regulation adopted by the Commission applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation;
  - (d) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;
  - (e) aid in the form of repayable advances, if the total nominal amount of the repayable advance does not exceed the thresholds applicable under this Regulation or if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission;
  - (f) aid in the form of the sale or the lease of tangible assets below market rates where the value is established either by an independent expert evaluation prior to the transaction or by reference to a publicly available, regularly updated and generally accepted benchmark.
4. For the purpose of this Regulation, the following forms of aid shall not be considered to be transparent aid:
  - (a) aid comprised in capital injections;

- (b) aid comprised in risk finance measures.

#### Article 6

##### Incentive effect

1. This Regulation shall apply only to aid which has an incentive effect.
2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for the aid to the Member State concerned before work on the project or activity has started. The application for the aid shall contain at least the following information:
  - (a) undertaking's name and size;
  - (b) description of the project or the activity, including its start and end dates;
  - (c) location of the project or the activity;
  - (d) list of eligible costs;
  - (e) type (grant, loan, guarantee, repayable advance or other) and amount of public funding needed for the project/activity.
3. Ad hoc aid granted to large enterprises shall be considered to have an incentive effect if, in addition to ensuring that the condition laid down in paragraph 2 is fulfilled, the Member State has verified, before granting the ad hoc aid concerned, that documentation prepared by the beneficiary establishes that the aid will result in one or more of the following:
  - (a) a material increase in the scope of the project or activity due to the aid;
  - (b) a material increase in the total amount spent by the beneficiary on the project or activity due to the aid;
  - (c) a material increase in the speed of completion of the project or activity concerned;
  - (d) in the case of investment ad hoc aid, that the project or activity would not have been carried out as such in the rural area concerned or would not have been sufficiently profitable for the beneficiary in the rural area concerned in the absence of the aid.

These requirements 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.

4. By way of derogation from paragraphs 2 and 3, measures in the form of tax advantages shall be deemed to have an incentive effect if both of the following conditions are fulfilled:
  - (a) the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State;
  - (b) the measure has been adopted and is in force before work on the aided project or activity has started, except in the case of fiscal successor schemes where the activity was already covered by the previous schemes in the form of tax advantages.
5. Moreover by way of derogation from paragraphs 2, 3 and 4 the following categories of aid are not required to have or shall be deemed to have an incentive effect:
  - (a) aid schemes for land consolidation where the conditions laid down in Article 15 or Article 53 are fulfilled and where:
    - (i) the aid scheme establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and
    - (ii) the aid scheme has been adopted and is in force before eligible costs under Article 15 or Article 53 are incurred by the beneficiary;
  - (b) aid for information actions in the agricultural sector in compliance with Articles 21 and 22, which consists of making available the information to an undefined number of beneficiaries;
  - (c) aid for promotion measures in the form of publications aimed at raising awareness of agricultural products among the wider public where the conditions laid down in Article 24(2), point (b), are fulfilled;
  - (d) aid to compensate for losses caused by adverse climatic event which can be assimilated to a natural disaster where the conditions laid down in Article 25 are fulfilled;

- (e) 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 or plant pests where the conditions laid down in Article 26 are fulfilled;
- (f) aid to cover the costs of the removal and destruction of fallen stock where the conditions laid down in Article 27(2), points (c), (d), (e) and (f), are fulfilled;
- (g) aid to make good the damage caused by protected animals where the conditions laid down in Article 29 are fulfilled;
- (h) aid for disadvantages related to Natura 2000 areas as referred to in Article 33;
- (i) aid for investments in favour of the conservation of cultural and natural heritage located on agricultural holdings or in forests where the conditions laid down in Article 36 are fulfilled;
- (j) aid to make good the damage caused by natural disasters in the agricultural sector where the conditions laid down in Article 37 are fulfilled;
- (k) aid for research, development and innovation in the agricultural and forestry sectors where the conditions laid down in Article 38 are fulfilled;
- (l) aid for the restoration of damage to forests in accordance with Article 43(2), point (d), where the conditions laid down in Article 43 are fulfilled;
- (m) aid for information actions in the forestry sector in compliance with Articles 47 and 48, which consists of making available the information to an undefined number of beneficiaries;
- (n) aid for conservation of genetic resources in forestry where the conditions laid down in Article 51 are fulfilled;
- (o) aid for the participation of farmers in quality schemes for cotton and foodstuffs where the conditions laid down in Article 58 are fulfilled;
- (p) aid for undertakings participating in or benefitting from CLLD projects and EIP Operational Group projects, if the relevant conditions in Articles 39, 40, 60 and 61 are fulfilled.

#### *Article 7*

##### **Aid intensity and eligible costs**

1. For the purposes of calculating the aid intensity and the eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary. The amounts of eligible costs may be calculated in accordance with the simplified cost options set out in Regulation (EU) 2021/1060 and Regulation (EU) 2021/2115, provided that the operation is at least partly financed through the EAFRD and that the category of costs is eligible according to the relevant exemption provision.
2. Aid amounts for the measures or types of operations referred to in Articles 31, 33, 34, 35, 41, 45 and 46 may be fixed on the basis of standard assumptions of additional costs and income foregone. In such cases, Member States shall ensure that the calculations and the corresponding aid contain only elements that are verifiable, are based on figures established by appropriate expertise, indicate clearly the source of the figures used, are differentiated to take account of regional or local site conditions and actual land use, where applicable and do not contain elements linked to investment costs.
3. Value added tax (VAT) shall not be eligible for aid, except where it is not recoverable under national VAT legislation.
4. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.
5. Aid payable in the future, including aid payable in several instalments, shall be discounted to its value at the moment it is granted. The eligible costs shall be discounted to their value on the date of granting the aid. The interest rate to be used for discounting purposes shall be the discount rate applicable on the date of granting the aid.
6. Where aid is granted by means of tax advantages, the discounting of aid tranches shall take place on the basis of the discount rates applicable at the various times the tax advantage takes effect.

7. Where aid is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and where the measure provides that in the case of a successful outcome of the project, as defined on the basis of reasonable and prudent hypothesis, the advances shall be repaid with an interest rate at least equal to the discount rate applicable on the date of granting the aid, the maximum aid intensities laid down in Chapter III may be increased by 10 percentage points.

#### Article 8

##### Cumulation

1. In determining whether the notification thresholds provided for in Article 4 and the maximum aid intensities and maximum aid amounts laid down in Chapter III are respected, the total amount of State aid for the aided activity or project or undertaking shall be taken into account.

2. Where Union funding is 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 shall 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 rates laid down in the applicable rules of Union law.

3. Aid with identifiable eligible costs, exempted from the notification requirement of Article 108(3) of the Treaty under this Regulation, may be cumulated with:

(a) any other State aid, as long as those measures concern different identifiable eligible costs;

(b) 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 aid under this Regulation.

4. Aid without identifiable eligible costs exempted under Articles 18, 19, 40 and 61 may be cumulated with any other State aid with identifiable eligible costs.

Aid without identifiable eligible costs may be cumulated with other State aid without identifiable eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by this or another block exemption regulation or decision adopted by the Commission.

5. State aid exempted under Sections 1, 2 and 3 of Chapter III of this Regulation shall not be cumulated with payments referred to in Article 145(2) and Article 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 this Regulation.

6. State aid granted under Articles 31, 34 and 35 shall 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 this Regulation.

7. State aid exempted under this Regulation shall 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 those laid down in Chapter III.

8. Aid for investments aimed at the restoration of agricultural production potential as referred to in Article 14(3), point (d), shall not be cumulated with aid for compensation for material damage as referred to in Articles 25, 26, 28 and 37.

9. Start-up aid for producer groups and organisations in the agricultural sector as referred to in Article 19 of this Regulation shall not be cumulated with aid for the setting-up of producers groups and organisations in the agricultural sector as referred to in Article 77 of Regulation (EU) 2021/2115.



10. Start-up aid for young farmers and start-up aid for agricultural activities as referred to in Article 18 of this Regulation shall not be cumulated with the support for the installation of young farmers or for rural business start-up 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 this Regulation.

#### Article 9

##### Publication and information

1. The Member State concerned shall ensure the publication in the Commission's transparency award module <sup>(26)</sup> or on a comprehensive State aid website at national or regional level of:

- (a) the summary information referred to in Article 11 or a link to it;
- (b) the full text of each aid referred to in Article 11, including any amendments, or a link providing access to the full text;
- (c) the information referred to in Annex III on each individual aid award exceeding the following:
  - (i) EUR 10 000 for beneficiaries active in the primary agricultural production sector;
  - (ii) EUR 100 000 for beneficiaries active in the sector of the processing of agricultural products, the marketing of agricultural products, the forestry sector or for activities falling outside the scope of Article 42 of the Treaty.

2. For aid schemes in the form of tax advantages, the conditions set out in paragraph 1 shall be considered fulfilled if Member States publish the required information on individual aid amounts in the following ranges in EUR million:

- (a) 0,01- 0,1 only for primary agricultural production;
- (b) 0,1- 0,5;
- (c) 0,5-1;
- (d) 1 to 2;
- (e) 2 to 5;
- (f) 5 to 10;
- (g) 10 to 30;
- (h) 30 and more.

3. The information referred to in paragraph 1 shall be organised and accessible in a standardized manner, as set out in Annex III and shall allow for effective search and download functions. The information referred to in paragraph 1, point (c), shall be published within six months from the date the aid was granted or, for aid in the form of tax advantages, within one year from the date the tax declaration is due, and shall be available for at least 10 years from the date of granting the aid.

4. The full text of the aid scheme or of the ad hoc aid referred to in paragraph 1 shall include, in particular, an explicit reference to this Regulation, by citing its title and publication reference in the *Official Journal of the European Union* and to the specific provisions of Chapter III concerned by that act, or where applicable, to the national law which ensures that the relevant provisions of this Regulation are complied with. The aid scheme or the ad hoc aid shall be accompanied by its implementing provisions and its amendments.

5. The publication obligations laid down in paragraph 1 shall not apply to aid granted to EIP Operational Group projects and CLLD projects under Articles 39, 40, 60 and 61.

6. The Commission shall publish on its website:

- (a) the summary information referred to in paragraph 1;
- (b) the links to the State aid websites of all Member States referred to in paragraph 1.

<sup>(26)</sup> 'State Aid Transparency Public Search', available at the following website: <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>

## CHAPTER II

**Procedural requirements**

## Article 10

**Withdrawal of the benefit of the block exemption**

Where a Member State grants aid that does not fulfil the conditions set out in Chapters I, II and III of this Regulation, the Commission may, after having provided the Member State concerned with the possibility to make its views known, adopt a decision stating that all or some of the future aid measures adopted by the Member State concerned which would otherwise fulfil the requirements of this Regulation, are to be notified to the Commission in accordance with Article 108(3) of the Treaty. The aid to be notified may be limited to certain types, to aid granted in favour of certain beneficiaries or to aid adopted by certain authorities of the Member State concerned.

## Article 11

**Reporting**

1. Member States shall transmit to the Commission, via the Commission's electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format laid down in Annex II, together with a link providing access to the full text of the aid measure, including any amendments, within 20 working days following its entry into force.
2. Member States shall transmit to the Commission in electronic form an annual report, as referred to in Chapter III of Regulation (EC) No 794/2004, on the application of this Regulation in respect of each whole year or each part of the year during which this Regulation applies.
3. The annual report shall also contain information concerning the following:
  - (a) animal diseases or plant pest as referred to in Article 26;
  - (b) meteorological information on the type, timing, relative magnitude and location of climatic events which can be assimilated to a natural disaster as referred to in Article 25 or natural disasters in the agricultural sector as referred to in Article 37;
4. Paragraph 1 of this Article shall not apply in respect of aid granted to EIP Operational Group projects and to community-led local development ('CLLD') projects as referred to in Articles 40 and 61.

## Article 12

**Evaluation**

1. Aid schemes referred to in Article 1(3) shall be subject to an *ex post* evaluation if they have a State aid budget or accounted expenditures over EUR 150 million in any given year or EUR 750 million over their total duration, that is 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 shall only be required for aid schemes the total duration of which exceeds three years, starting from 1 January 2023.
2. 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 shall be suspended with immediate effect. Any successor of such suspended scheme shall not enjoy the benefit of the block exemption.
3. The aim of the evaluation shall 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. The evaluation shall also assess the impact of the scheme on competition and trade.
4. For aid schemes subject to the evaluation requirement pursuant to paragraph 1, Member States shall notify a draft evaluation plan as follows:
  - (a) within 20 working days from the scheme's entry into force, 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.
5. The draft evaluation plan shall be in accordance with the common methodology for State aid evaluation adopted by the Commission. Member States shall publish the evaluation plan approved by the Commission.
6. The *ex post* evaluation shall be carried out by an expert independent from the aid granting authority on the basis of the evaluation plan. Each evaluation shall include at least one interim and one final evaluation report. Member States shall publish both reports.
7. The final evaluation report shall be submitted to the Commission at the latest nine months before the expiry of the exempted scheme. That period may be reduced for schemes triggering the evaluation requirement in their last two years of implementation. The precise scope and arrangements for each evaluation shall be set out in the decision approving the evaluation plan. The notification of any subsequent aid measure with a similar objective shall describe how the results of the evaluation have been taken into account.

#### Article 13

### Monitoring

Member States shall maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in this Regulation are fulfilled. Such records shall be kept for 10 years from the date on which the ad hoc aid was granted or the last aid was granted under an aid scheme. The Member State concerned shall provide the Commission, within a period of 20 working days or such longer period as may be fixed in the request, with all the information and supporting documentation, which the Commission considers necessary to monitor the application of this Regulation.

#### CHAPTER III

### Categories of aid

#### Section 1

### **Aid in favour of SMEs active in primary agricultural production, the processing of agricultural products and the marketing of agricultural products**

#### Article 14

### **Aid for investments in agricultural holdings linked to primary agricultural production**

1. Aid for investments in agricultural holdings linked to primary agricultural production shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The investment may be carried out by one or more beneficiaries or concern a tangible asset or intangible asset used by one or more beneficiaries.
3. The investment shall 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) improvement of the natural environment, hygiene conditions or animal welfare standards;
- (c) creation and improvement of infrastructure related to the development, adaptation and modernisation of agriculture, including access to farm land, land consolidation and improvement, energy efficiency, the supply of sustainable energy and saving of water or energy;
- (d) restoration of production potential damaged by natural disasters, adverse climatic events which can be assimilated to natural disasters, animal diseases and plant pests, protected animals and the prevention of damages caused by those events and factors; if the damage can be linked to climate change, beneficiaries shall, where appropriate, include in the restoration adaptation measures to climate change;

- (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.

4. The investment may be linked to the production at farm-level of biofuels or of energy from renewable sources, provided that such production does not exceed the average annual consumption of fuels or energy of the given farm.

Where the investment is made for the production of biofuels, the production capacity of the production facilities shall be no more than the equivalent to the annual average fuel consumption of the agricultural holding and the produced biofuel shall not be sold on the market.

Where the investment is made for the production of thermal energy and electricity from renewable sources on agricultural holdings, the production facilities shall serve only the beneficiary's own energy needs and their production capacity shall be no more than the equivalent to the combined average annual energy consumption of thermal energy and electricity on the agricultural holding, including the farm household. The selling of electricity into the grid shall only be allowed as far as the annual average self-consumption limit is respected.

Where the investment is carried out by more than one beneficiary with the purpose to serve their own biofuel and energy needs, the annual average consumption shall be accumulated to the amount equivalent to the average annual consumption of all beneficiaries.

Investments in renewable energy infrastructure that consume or produce energy shall comply with minimum standards for energy efficiency, where such standards exist at national level.

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

Member States shall establish thresholds for the maximum proportions of cereals and other starch rich crops, sugars 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 investment projects shall be limited to bioenergy meeting the applicable sustainability criteria laid down in Union legislation.

5. For investment requiring an environmental impact assessment under Directive 2011/92/EU of the European Parliament and of the Council<sup>(27)</sup> the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.

6. The aid shall cover the following eligible costs:

- (a) the costs for 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;
- (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
- (c) the 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, sustainable energy, energy efficiency and the production and use of renewable energy, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;

<sup>(27)</sup> 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).

- (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 specific environmental and climate-related objectives referred to in paragraph 3, points (e), (f) and (g);
- (f) in the case of irrigation, the costs for investments that fulfil the following conditions:
- (i) a river basin management plan, in accordance with Directive 2000/60/EC of the European Parliament and of the Council <sup>(28)</sup>, has been notified to the Commission for the entire area in which the investment is to take place, as well as for any other areas where the environment might be affected by the investment; the measures taken under the river basin management plan in accordance with Article 11 of that Directive and of relevance to the agricultural sector shall be specified in the relevant programme of measures;
  - (ii) water metering enabling measurement of water use at the level of the supported investment is in place or shall be put in place as part of the investment;
  - (iii) an investment in an improvement of an existing irrigation installation or element of irrigation infrastructure shall be assessed *ex ante* for offering water savings reflecting the technical parameters of the existing installation or infrastructure;
  - (iv) 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 <sup>(29)</sup> 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 those water bodies, as laid down in Article 4(1) of Directive 2000/60/EC. The conditions laid down in the previous sentence shall not 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;
  - (v) the Member State shall set percentages for potential water savings and effective reduction in water use as an eligibility conditions, to ensure that there is an effective reduction of the amount of water flowing through the equipment as compared to the 2014-2020 levels and therefore to avoid a regression in the level of environmental ambition:
    - the percentage of potential water savings shall be at least 5 %, where the technical parameters of the existing installation or infrastructure already ensure a high degree of efficiency (prior to investment), and at least 25 %, where the current degree of efficiency 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;
    - the percentage of effective reduction in water use shall be, at the level of the investment as a whole, at least 50 % of the potential water saving made possible by the investment in the existing irrigation installation or element of infrastructure;
    - such water savings must reflect the needs set out in the river basin management plans emanating from the Directive 2000/60/EC;
- (g) 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 No (EU) 2020/741 of the European Parliament and of the Council <sup>(30)</sup>;
- (h) in the case of investments aimed at the restoration of agricultural production potential damaged by natural disasters, adverse climatic events which can be assimilated to natural disasters, animal diseases, plant pests or protected animals, the eligible costs may include the costs incurred for restoring the agricultural production potential up to the level it was at before the occurrence of those events;

<sup>(28)</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

<sup>(29)</sup> Technical guidance on the climate proofing of infrastructure in the period 2021-2027 (OJ C 373, 16.9.2021, p. 1).

<sup>(30)</sup> 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) in the case of investments aimed at the prevention of damage caused by natural disasters, adverse climatic events which can be assimilated to natural disasters, animal diseases, plant pests or protected animals, the eligible costs may include the costs of specific preventive actions.

7. Costs, other than those referred to in paragraph 6, points (a) and (b), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.

Working capital shall not be considered to be an eligible cost.

8. As regards irrigation, aid shall be paid only by Member States which ensure, in respect of the river basin district in which the investment takes place, a contribution of the different water uses to the recovery of the costs of water services by the agricultural sector consistent with Article 9(1), second subparagraph, first indent, of Directive 2000/60/EC having regard where appropriate, to the social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected.

9. Aid shall not be granted in respect of the following:

(a) the purchase of payment entitlements;

(b) the purchase and the planting of annual plants with exception of aid covering the costs referred to in paragraph 6, point (h);

(c) drainage works;

(d) the purchase of animals, with exception of aid covering the costs referred to in paragraph 6, point (h) and the purchase of guard dogs;

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

10. The aid referred to in paragraph 1 shall 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.

11. The aid intensity shall not exceed 65 % of the eligible costs.

12. The aid intensity 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 paragraph 3, points (e), (f) and (g), or to animal welfare;

(b) investments by young farmers;

(c) investments in the outermost regions or the smaller Aegean islands.

13. The aid intensity referred to in paragraph 12 point (c), may be increased to a maximum of 85 % for investments of small farms within the meaning of Article 28 of Regulation (EU) 2021/2115.

14. The aid intensity may be increased to a maximum of 100 % for the following investments:

(a) non-productive investments linked to the objectives referred to in paragraph 3, points (e), (f) and (g);

(b) investments for the restoration of production potential referred to in paragraph 3, point (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.

15. The aid intensity for irrigation under paragraph 6, point (f), shall be limited to one or more rates not exceeding:

(a) 80 % of the eligible costs for irrigation on-farm investments made under paragraph 6, point (f)(iii);

(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.

*Article 15***Aid for agricultural land consolidation**

Aid for agricultural land consolidation shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in Chapter I of this Regulation and is granted towards and limited to the legal and administrative costs, including survey costs, up to 100 % of the real costs incurred.

*Article 16***Aid for investments concerning the relocation of farm buildings**

1. Aid to SMEs active in the primary agricultural production for investments concerning the relocation of farm buildings shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The relocation of the farm building shall pursue an objective of public interest.

The public interest invoked to justify the granting of aid under this Article shall be specified in the relevant provisions of the Member State concerned.

3. Where the relocation of a farm building consists of the dismantling, removal and re-building of existing facilities the aid intensity shall be limited to 100 % of the real costs incurred for such activities.

4. Where, in addition to the dismantling, removal and re-building of existing facilities as referred to in paragraph 3, the relocation results in a modernisation of these facilities or in an increase in production capacity the aid intensities for investments referred to in Article 14(12) to (15) shall apply in respect to the costs relating to the modernisation of the facilities or the increase in the production capacity.

For the purpose of this paragraph, 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 shall not be considered to be related to the modernisation.

5. The maximum aid intensity may reach up to 100 % of the eligible costs 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.

*Article 17***Aid for investments in connection with the processing or the marketing of agricultural products**

1. Aid for investments in connection with the processing or marketing of agricultural products shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The investment shall concern tangible or intangible assets in connection with the processing of agricultural products or the marketing of agricultural products.

3. Investments in connection with the production of food based biofuels shall not be eligible for aid under this Article.

4. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.

5. The aid shall cover 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 purchase of land only being eligible to an extent not exceeding 10 % of the total of the eligible costs of the operation concerned;

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

- (c) general costs linked to expenditure referred to in points (a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;
- (d) acquisition, development or usage fees of computer software, cloud and similar solutions, and acquisitions of patents, licenses, copyrights, trademarks.
6. Costs, other than those referred to in paragraph 5, points (a) and (b), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.
7. Working capital shall not be considered to be an eligible cost.
8. Wiring or cabling for data networks outside the private property shall not be considered to be an eligible cost.
9. Aid shall not be granted in respect of investments to comply with Union standards in force.
10. The aid referred to in paragraph 1 shall 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.
11. The aid intensity shall not exceed 65 %, except in the cases indicated in paragraph 12.
12. The aid intensity 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 Article 14(3), points (e), (f) and (g), or to an improvement in animal welfare;
- (b) investments by young farmers;
- (c) investments in the outermost regions or the smaller Aegean islands.

#### Article 18

##### **Start-up aid for young farmers and start-up aid for agricultural activities**

1. Start-up aid for young farmers and start-up aid for agricultural activities shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where they fulfil the conditions laid down in this Article and in Chapter I of this Regulation.
2. The aid shall cover the start-up of rural businesses in agricultural activities and to the farm household income diversification into other agricultural activities.
3. The aid shall only be granted to young farmers in the form of micro and small enterprises.
4. Where the aid is granted to a young farmer who is setting up a holding in the form of a legal person, the young farmer shall exercise effective and long-term control over the legal person in terms of decisions related to management, benefits and financial risks. Where several natural persons, including persons who are not young farmers, participate in the capital or management of the legal person, the young farmer shall be capable of exercising such effective and long-term control either solely or jointly together with other persons. Where a legal person is solely or jointly controlled by another legal person, those requirements shall apply to any natural person having control over that other legal person <sup>(31)</sup>.
5. The aid shall be conditional on the submission of a business plan to the competent authority of the Member State concerned.
6. For young farmers, where the beneficiary does not comply with the conditions in Article 4(6), point (c), of Regulation (EU) 2021/2115, the beneficiary shall nonetheless be eligible for aid for young farmers, provided that the beneficiary makes a commitment to acquire those occupational skills and competences within 36 months from the date of the adoption of the decision granting the aid. That commitment must be included in the business plan.

<sup>(31)</sup> As regards the notion of control, Chapter II, point 1, of the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ C 95, 16.4.2008, p. 1) shall apply by analogy.



7. Support shall be limited to EUR 100 000 per young farmer or per start up in farming or per farm household.

#### Article 19

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

1. Start-up aid for producer groups and organisations shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. Only producer groups or organisations that have been officially recognised by the competent authority of the Member State concerned shall be eligible for aid.
3. Member States shall adjust aid exempted in accordance with this Article to take account of any changes in the regulations governing the common organisation of the markets in agricultural products.
4. Aid shall 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, which 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), or Article 156 of Regulation (EU) No 1308/2013.
5. The aid shall cover the following eligible costs:
  - (a) the costs of the rental of suitable premises;
  - (b) the acquisition of office equipment;
  - (c) administrative staff costs;
  - (d) overheads and legal and administrative fees;
  - (e) 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 shall be limited to rental costs at market rates.

6. The aid shall 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 concerned. Member States shall only pay the last instalment after having verified the correct implementation of the measure.
7. The aid shall be limited to 10 % of the annual marketed production of the producer group or organisation.
8. The aid amount shall be limited to EUR 100 000 per year. The aid shall be degressive.

#### Article 20

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

1. The following categories of aid to producers of agricultural products and groups thereof shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof:
  - (a) aid for new participation in quality schemes where it fulfils the conditions laid down in paragraphs 2 to 6 of this Article and in Chapter I;
  - (b) aid towards the costs of compulsory control measures in relation to quality schemes undertaken pursuant to Union or national legislation by or on behalf of the competent authority, where it fulfils the conditions laid down in paragraphs 2, 4, 6, 7 and 8 of this Article and in Chapter I;
  - (c) aid towards the costs of market research activities, product conception and design and for preparation of applications for the recognition of quality schemes where it fulfils the conditions laid down in paragraphs 2, 6, 7 and 8 of this Article and in Chapter I.

2. The aid referred to in paragraph 1 shall be granted in respect of the following quality schemes:
- (a) quality schemes established under:
- (i) Part II, Title II, Chapter I, Section 2 of Regulation (EU) No 1308/2013 as regards wine;
  - (ii) Regulation (EU) No 1151/2012;
  - (iii) Regulation (EU) 2018/848 of the European Parliament and of the Council <sup>(32)</sup>;
  - (iv) Regulation (EU) 2019/787 of the European Parliament and of the Council <sup>(33)</sup>;
  - (v) Regulation (EU) No 251/2014 of the European Parliament and of the Council <sup>(34)</sup>;
- (b) quality schemes, including farm certification schemes, for agricultural products recognised by the Member States as complying with the following conditions:
- (i) the specificity of the final product produced under such quality schemes shall be derived from clear obligations to guarantee one of the following:
    - specific product characteristics;
    - specific farming or production methods;
    - the quality of the final product that go significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;
  - (ii) the quality scheme shall be open to all producers;
  - (iii) the quality scheme shall involve binding final product specifications and compliance with those specifications shall be verified by public authorities or by an independent inspection body;
  - (iv) the quality scheme shall be transparent and assure complete traceability of agricultural products;
- (c) voluntary agricultural product certification schemes recognised by the Member State concerned as meeting the requirements laid down in the Commission Communication – EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs <sup>(35)</sup>.
3. The aid referred to in paragraph 1, point (a), shall be granted to producers of agricultural products in the form of an annual incentive payment, the level of which shall be determined according to the level of the fixed costs arising from participation in the quality schemes.
4. The aid referred to in paragraph 1, points (a) and (b), shall not be granted towards the cost of controls undertaken by the beneficiary itself, or where Union legislation provides that the cost of controls is to be met by producers of agricultural products and groups thereof, without specifying the actual level of charges.
5. The aid referred to in paragraph 1, point (a), shall be granted for a maximum period of seven years.
6. The aid shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions.
7. The aid referred to in paragraph 1, points (b) and (c), shall not involve direct payments to the beneficiaries.

It shall be paid to the body responsible for control measures, the research provider or the consultancy provider.

<sup>(32)</sup> 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).

<sup>(33)</sup> Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008 (OJ L 130, 17.5.2019, p. 1).

<sup>(34)</sup> Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).

<sup>(35)</sup> Commission Communication – EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs (OJ C 341, 16.12.2010, p. 5).

8. The aid referred to in paragraph 1, points (b) and (c), shall be limited to 100 % of the real costs incurred.

#### Article 21

#### **Aid for knowledge exchange and information actions**

1. Aid for knowledge exchange and information actions shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. Aid shall cover vocational training and skills acquisition actions, including training courses, workshops, conferences and coaching, demonstration activities, information actions and promotion of innovation.

Aid may also cover short-term farm management exchanges and farm visits.

Member States shall ensure that actions supported under this Article are consistent with the description of the Agricultural Knowledge and Innovation Systems ('AKIS') provided in the CAP Strategic Plan.

Aid for demonstration activities may cover relevant investment costs.

3. The aid shall cover the following eligible costs:

- (a) the costs of organising the vocational training, skills acquisition actions, including training courses, workshops, conferences and coaching, demonstration activities or information actions;
- (b) the costs for travel, accommodation and per diem expenses of the participants;
- (c) the cost of the provision of replacement services during the absence of the participants;
- (d) in the case of demonstration projects in relation to investments:
  - (i) the construction, acquisition, including leasing, or improvement of immovable property, with purchase of land only being eligible to an extent not exceeding 10 % of total eligible costs of the operation concerned;
  - (ii) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
  - (iii) general costs linked to expenditure referred to in points (i) and (ii) such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under in points (i) and (ii) is incurred;
  - (iv) the acquisition, development or usage fees of computer software, cloud and similar solutions, and the acquisitions of patents, licences, copyrights and trademarks.

4. The costs referred to in paragraph 3, point (d), shall only be eligible to the extent incurred 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, shall be considered as eligible.

5. Aid referred to in paragraph 3, points (a) and (c), shall not involve direct payments to the beneficiaries.

Aid for the costs of the provision of replacement services referred to in paragraph 3, point (c), may be paid directly to the provider of the replacement services.

6. Bodies providing knowledge exchange and information actions shall have the appropriate capacities in the form of staff qualifications and regular training to carry out those tasks.

The provision of the activities referred to in paragraph 2 may be undertaken by producer groups or other organisations, regardless of their size.

7. The aid shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions.

Where the provision of the activities referred to in paragraph 2 is undertaken by producer groups and organisations, membership of such groups or organisations shall not be a condition for access to those activities.

Any contribution of non-members towards the administrative costs of the producer group or organisation concerned shall be limited to the costs of providing the activities referred to in paragraph 2.

8. The aid intensity shall be limited to 100 % of the eligible costs.

In the case of demonstration projects as referred to in paragraph 3, point (d), the maximum aid amount shall be limited to EUR 100 000 over 3 fiscal years.

#### Article 22

##### Aid for advisory services

1. Aid for advisory services shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The aid shall be designed to help undertakings active in the agricultural sector and young farmers benefit from the use of advisory services.

Member States shall ensure that actions supported under this Article are consistent with the description of the Agricultural Knowledge and Innovation Systems (AKIS) provided in the CAP Strategic Plan.

3. The advice shall be linked to at least one specific objective specified in Article 6 of Regulation (EU) 2021/2115 and shall cover at least one of the following:

- (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) the requirements laid down by Member States to implement Directive 2000/60/EC, Directive 92/43/EEC, Directive 2009/147/EC, Directive 2008/50/EC of the European Parliament and of the Council <sup>(36)</sup>, Directive (EU) 2016/2284 of the European Parliament and of the Council <sup>(37)</sup>, Regulation (EU) 2016/2031, Regulation (EU) 2016/429 of the European Parliament and of the Council <sup>(38)</sup>, Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council <sup>(39)</sup> and Directive 2009/128/EC of the European Parliament and of the Council <sup>(40)</sup>;
- (c) farm practices preventing the development of antimicrobial resistance as referred to in the Communication 'A European One Health Action Plan against Antimicrobial Resistance' <sup>(41)</sup>;
- (d) risk prevention and management;
- (e) modernisation, strengthening competitiveness, sectoral integration, market orientation and promotion of entrepreneurship and innovation, in particular for preparing and implementing EIP Operational Group projects;
- (f) digital technologies in agriculture as referred to in Article 114, point (b), of Regulation (EU) 2021/2115;

<sup>(36)</sup> 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).

<sup>(37)</sup> 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).

<sup>(38)</sup> 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).

<sup>(39)</sup> 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).

<sup>(40)</sup> 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).

<sup>(41)</sup> 'A European One Health Action Plan against Antimicrobial Resistance (AMR)' (COM(2017) 339 final).

- (g) sustainable management of nutrients, including, at the latest as from 2024, use of a Farm Sustainability Tool for Nutrients, as referred to in Article 15(4) of Regulation (EU) 2021/2115;
- (h) conditions of employment and employer obligations as well as occupational health and safety and social support in agricultural communities;
- (i) 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.

4. Advice may also cover issues, other than those referred to in paragraph 3, linked to the economic and environmental performance of the agricultural holding including competitiveness aspects. This may include advice for the development of short supply chains, organic farming, the saving of sustainable energy, energy efficiency and the production and use of renewable energy for agriculture, increasing biodiversity or biodiversity performance and health aspects of animal husbandry.

5. The aid shall take the form of a subsidised service.

6. The bodies selected to provide the advisory service shall have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields in which they advise.

The provision of advisory service may be undertaken by producer groups or other organisations, regardless of their size.

Member States shall ensure that the provider of the advisory service is impartial and has no conflict of interest.

7. The aid shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions.

Where the provision of advisory services is undertaken by producer groups and organisations, membership of such groups or organisations shall not be a condition for access to the service.

Any contribution of non-members towards the administrative costs of the group or organisation concerned shall be limited to the costs of providing the advisory service.

8. The amount of aid shall be limited to 100 % of the eligible costs up to EUR 25 000 (except those under paragraph 4) per period of three years, for advice provided by service providers to a single beneficiary active in the primary agricultural production.

9. The amount of aid shall be limited to 100 % of the eligible costs up to EUR 200 000 (except those under paragraph 4) per three years, for advice provided by service providers to a single beneficiary active in the processing and marketing of agricultural products.

#### Article 23

##### **Aid for farm replacement services**

1. Aid for farm replacement services shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The aid shall cover the real costs incurred for the replacement of a farmer, a natural person who is a member of the farm household, or a farm worker, during their absence from work due to illness, including illness of their child and serious illness of a cohabitating person, which requires constant care, holidays, maternity and parental leave, mandatory military service, in case of death or in the case of Article 21(3), point (c).

3. The total duration of the replacement shall be limited to 3 months per year per beneficiary, with the exception of replacement for maternity and parental leave and replacement during mandatory military service. For maternity and parental leave, the duration of the replacement shall be limited to 6 months in each case. For mandatory military service, the duration of the replacement shall be limited to the duration of the service.

4. The aid shall take the form of a subsidised service.

The provision of farm replacement services may be undertaken by producer groups and organisations, regardless of their size. In such case, membership of such groups or organisations shall not be a condition for access to the service.

5. The aid intensity shall be limited to 100 % of the real costs incurred.

*Article 24*

**Aid for promotion measures in favour of agricultural products**

1. Aid for promotion measures in favour of agricultural products shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The aid shall cover the costs for:

- (a) the organisation of and participation in competitions, trade fairs and exhibitions;
- (b) publications aimed at raising awareness of agricultural products among the wider public.

3. The publications referred to in paragraph 2, point (b), shall not refer to any particular undertaking, brand name or origin.

However, the first subparagraph shall not apply to references to the origin of agricultural products covered by:

- (a) quality schemes as referred to in Article 20(2), point (a), provided that the reference corresponds exactly to that protected by the Union;
- (b) quality schemes as referred to in Article 20(2), points (b) and (c), provided that the reference is secondary in the message.

4. The aid shall cover the following eligible costs for the organisation of and participation in competitions, trade fairs and exhibitions:

- (a) participation fees;
- (b) travel costs, and costs for the transportation of animals and of the products that will be covered by the promotion action;
- (c) costs of publications and websites announcing the event;
- (d) the rent of exhibition premises and stands and the costs of their installation and dismantling;
- (e) symbolic prizes up to a value of EUR 3 000 per prize and per winner of a competition.

5. The aid shall cover the following eligible cost for publications aimed at raising awareness of agricultural products among the wider public:

- (a) costs of publications in print- and electronic media, websites, and spots in electronic media, on radio or television, aimed at presenting factual information on beneficiaries from a given region or producing a given agricultural product, provided that the information is neutral and that all beneficiaries concerned have equal opportunities to be represented in the publication;
- (b) costs for the dissemination of scientific knowledge and factual information on:
  - (i) quality schemes as referred to in Article 20(2) open to agricultural products from other Member States and third countries;
  - (ii) generic agricultural products and their nutritional benefits and suggested uses for them.

6. The aid shall be granted in one of the following forms:

- (a) in kind;
- (b) on the basis of the reimbursement of the real costs incurred by the beneficiary;
- (c) with regard to aid for symbolic prizes, also in cash.

Where the aid is granted in kind the aid shall take the form of a subsidised service.

The provision of promotion measures may be undertaken by producer groups or other organisations, regardless of their size.

Aid for symbolic prizes as referred to in paragraph 4, point (e), shall only be paid to the provider of the promotion measures if the prize has been actually awarded and upon presentation of a proof of the award.

7. Aid for promotion measures shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions.

Where the provision of the promotion measure is undertaken by producer groups and organisations, membership of such groups or organisations shall not be a condition for participation. Any contribution of non-members towards the administration fees of the producer group or organisation concerned shall be limited to the cost of providing the promotion measures.

8. The aid intensity shall be limited to 100 % of the eligible costs.

#### Article 25

#### **Aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster**

1. Aid to make good the damage caused by an adverse climatic event which can be assimilated to a natural disaster shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. Aid to make good damage caused by an adverse climatic event which can be assimilated to a natural disaster, shall be subject to the following cumulative conditions:

- (a) the competent authority of the Member State has formally recognised 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.

3. Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to in paragraph 2, point (a) is deemed to be granted.

4. The aid shall 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 shall not exceed the amount of aid to which that undertaking is eligible.

5. Aid schemes related to an adverse climatic event which can be assimilated to a natural disaster shall be established within three years and the aid paid out four years from the date of the occurrence of the adverse climatic event which can be assimilated to a natural disaster.

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

7. The damage incurred due to the adverse climatic event which can be assimilated to a natural disaster shall be calculated at the level of the individual beneficiary. The aid may relate to the following:

- (a) the loss of income from the full or partial destruction of the agricultural production and the means of production as referred to in paragraph 8;
- (b) material damage as referred to in paragraph 9.

8. The loss of income shall be calculated 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.

Where an SME was set up less than three years from the date of the occurrence of the adverse climatic event which can be assimilated to a natural disaster, the reference to the three-year period in paragraph 8, point (b) shall be understood as referring to the quantity produced and sold by an average undertaking of the same size as the applicant, namely a micro enterprise or a small enterprise or a medium enterprise, respectively, in the national or regional sector affected by the adverse climatic event which can be assimilated to a natural disaster.

The loss of income may be calculated either at annual farm production level or at crop or livestock level.

The loss of income 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 loss of income amount shall be reduced by any costs not incurred because of the adverse climatic event which can be assimilated to a natural disaster.

Indexes may be used in order to calculate the agricultural production of the beneficiary provided that the calculation method used permits the determination of the real loss of the beneficiary in the given year.

9. The material damage to assets such as farm buildings, equipment and machinery, stocks and means of production caused by the adverse climatic event which can be assimilated to a natural disaster shall 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 shall not exceed the repair cost or the decrease in fair market value caused by the disaster, namely the difference between the asset's value immediately before and immediately after the adverse climatic event which can be assimilated to a natural disaster.

Where the loss of the beneficiary's income referred to in paragraph 8 is calculated on the basis of crop or livestock level, only the material damage related to that crop or livestock shall be taken into account.

10. Aid shall be reduced by at least 50 % unless it is granted to beneficiaries who have taken out insurance covering at least 50 % of their average annual production or production-related income and the statistically most frequent climatic risks in the Member State or region concerned for which insurance coverage is provided.

11. The aid and any other payments received to compensate for the losses, including payments under other national or Union measures or insurance policies, shall be limited to 80 % of the eligible costs.

The aid intensity may be increased up to 90 % in areas facing natural constraints.

#### Article 26

#### **Aid for the costs of the prevention, control and eradication of animal diseases or plant pests and aid to make good the damage caused by animal diseases or plant pests**

1. Aid to cover the costs of prevention, control and eradication of animal diseases or plant pests and aid to compensate for losses caused by those animal diseases or plant pests shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where they fulfil the conditions laid down in this Article and in Chapter I of this Regulation.

2. Aid shall be subject to the following conditions:

(a) it shall be paid only in relation to animal diseases or plant pests for which Union or national rules exist, whether laid down by law, regulation or administrative action;

(b) it shall be 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 18, Article 28(1) and (2) and Article 29(1) and (2), 30(1) and 33(1) of Regulation (EU) 2016/2031;
- (iv) measures to prevent, control and eradicate animal diseases in accordance with Regulation (EU) 2016/429.

The programme and measures referred to in point (b) shall contain a description of the prevention, control or eradication measures concerned.

3. As regards animal diseases, the aid shall be granted in respect of animal diseases referred to in the list of animal diseases referred to in Article 5(1) of Regulation (EU) 2016/429, in the list of zoonoses laid down in Annex III of Regulation (EU) 2021/690 of the European Parliament and of the Council <sup>(42)</sup> or in the list of animal diseases, infections and infestations of the Terrestrial Code established by the World Organisation for Animal Health.

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

5. The aid shall not relate to measures the cost of which Union legislation requires to be borne by the beneficiary, unless the cost of such measures is entirely offset by compulsory charges on the beneficiaries.

6. Aid shall 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 shall not exceed the amount of aid to which that undertaking is eligible.

7. Aid schemes related to an animal disease or a plant pest shall be introduced within three years and the aid paid out within four years from the date of the occurrence of the cost or damage caused by the animal disease or plant pest.

8. In the case of measures regarding an animal disease, plant pest or invasive alien species, meaning invasive alien species of Union concern as defined in Article 3(3) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council <sup>(43)</sup> and 'invasive alien species of Member State concern' as defined in Article 3(4) of Regulation (EU) No 1143/2014, that has not yet occurred ('prevention measures'), the aid shall cover the following eligible costs:

- (a) health checks;
- (b) analyses, including in-vitro diagnostics;
- (c) tests and other screening measures, including TSE and BSE tests;
- (d) the purchase, storage, distribution and administration of vaccines, medicines, substances for the treatment of animals and plant protection products and biocidal products;
- (e) the slaughtering or culling of animals or the destruction of animal products and plants and the cleaning and disinfection or disinfestation of the holding and equipment;
- (f) the setting or improvement of biosecurity measures.

9. In the case of control and eradication measures, the aid shall cover the following eligible costs:

- (a) tests and other screening measures in case of animal diseases, including TSE and BSE tests;
- (b) the purchase, storage, administration and distribution of vaccines, medicines, substances for the treatment of animals and plant protection products and biocidal products;
- (c) the slaughtering 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 vaccinations or other measures ordered by the competent public authorities;

<sup>(42)</sup> 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).

<sup>(43)</sup> 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).

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

10. In the case of aid to make good the damage caused by animal diseases or plant pests, compensation shall be calculated only on the basis of:

(a) the market value of the animals slaughtered or culled or that have died or the products, linked to them, or the plants destroyed:

(i) as a result of the animal disease or the plant pest;

(ii) as part of a public programme or measure as referred to in paragraph 2, point (b);

(b) the loss of income due to quarantine obligations, difficulties in restocking or replanting and obligatory crop-rotation imposed as part of a public programme or measure as referred to in paragraph 2, point (b);

(c) the costs of replacement of equipment destroyed under the order of the Member State's competent authorities.

For the purposes of the first subparagraph, point (a), the market value shall be established on the basis of the value of the animals, products and plants immediately before any suspicion of the animal disease or plant pest arose or was confirmed.

11. The compensation calculated in accordance with paragraph 10 shall be reduced by:

(a) any costs not directly incurred due to the animal disease or plant pest which would otherwise have been incurred by the beneficiary;

(b) any revenue made by the sale of products related to the animals slaughtered or culled or to the plants destroyed for preventive or eradication purposes on the order of the competent authorities.

12. Aid to make good the damage caused by animal diseases or plant pests shall be limited to costs and damage caused by animal diseases and plant pests for which the competent authority of the Member State has done one of the following:

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

(b) formally acknowledged their presence, in the case of plants pests.

13. Aid in relation to the eligible costs referred to in paragraphs 8 and 9 shall be granted in kind and shall be paid to the provider of the prevention, control and eradication measures.

By way of derogation from the first subparagraph, aid in relation to the eligible costs referred to in the following provisions may be granted directly to the beneficiary on the basis of reimbursement of the real costs incurred by the beneficiary:

(a) paragraph 8, points (d) and (e) and paragraph 9, point (b), in the case of animal diseases or plant pests;

(b) paragraph 8, point (e), and paragraph 9, point (c), in the case of plant pests and for the cleaning and disinfection of the holding and equipment.

14. No individual aid shall be granted where it is established that the animal disease or the infestation with the plant pest was caused deliberately or by the negligence of the beneficiary.

15. 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 as referred to in paragraphs 8, 9, and 10 shall be limited to 100 % of the eligible costs.

#### Article 27

##### **Aid to the livestock sector and aid for fallen stock**

1. The following aid to livestock farmers shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The aid shall cover the costs for:

(a) the administrative costs of the establishment and maintenance of breeding books;

(b) the 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;

- (c) the removal of fallen stock;
- (d) the destruction of fallen stock;
- (e) the removal and destruction of fallen stock where the aid is financed through fees or through compulsory contributions destined for the financing of the destruction of such fallen stock, provided that such fees or contributions are limited to and directly imposed on the meat sector;
- (f) the costs of the removal and destruction of fallen stock where there is an obligation to perform TSE tests on the fallen stock concerned or in case of an outbreak of an animal disease referred to in Article 26(3).

3. Aids referred to in paragraph 2, points (c), (d), (e) and (f), shall be conditional on the existence of a consistent monitoring programme which ensures the safe disposal of all fallen stock in the Member State.

The aid towards the costs of premiums paid by farmers for insurance covering the costs of the removal and destruction of fallen stock referred to in paragraph 2, point (e), of this Article shall comply with the conditions laid down in Article 28(2).

4. The aid shall be provided in kind and shall not involve direct payments to the beneficiaries.

In order to facilitate the administration of the aid referred to in paragraph 2, points (c), (d), (e) and (f) the aid may be paid to economic operators or bodies that fulfil 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.

5. The aid intensity shall be limited to:

- (a) 70 % of the costs of tests as referred to in paragraph 2, point (b);
- (b) 75 % of the costs linked to destruction referred to in paragraph 2;
- (c) 100 % of the costs linked to administrative costs, removal, destruction and insurance premium linked to removal as referred to in paragraph, 2 points (a), (d), (e) and (f).

#### Article 28

##### **Aid for the payment of insurance premiums and for financial contributions to mutual funds**

1. Aid for the payment of insurance premiums and for financial contributions to mutual funds shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. Aid for the payment of insurance premiums shall not:

- (a) constitute a barrier to the operation of the internal market for insurance services;
- (b) be limited to insurance provided by a single insurance company or group of companies;
- (c) be made subject to the condition that the insurance contract be taken out with a company established in the Member State concerned.

3. The insurance shall be intended to cover losses caused by any of the following:

- (a) natural disasters;
- (b) an adverse climatic event which can be assimilated to a natural disaster and other adverse climatic events;
- (c) animal diseases or plant pest or protected animals;
- (d) compensate for the insurance premiums for insurance covering the costs of the removal and destruction of fallen stock.

4. The insurance shall:

- (a) compensate only the cost of making good the losses referred to in paragraph 3;
- (b) not require or specify the type or quantity of future agricultural production.

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

6. The mutual fund concerned shall fulfil the following cumulative conditions:
  - (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.
7. Member States shall 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 shall ensure that the fund arrangements provide for penalties in case of negligence on the part of the beneficiary.
8. The aid intensity shall be limited to 70 % of the costs of the insurance premium or of the financial contribution to a mutual fund.

#### Article 29

##### **Aid to make good the damage caused by protected animals**

1. Aid to make good the damage caused by protected animals shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The Member State shall establish a direct causal link, pursuant to paragraph 5, between the damage suffered and the behaviour of the protected animal.
3. Aid shall 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 shall not exceed the amount of aid to which that undertaking is eligible.
4. The aid scheme shall be established within a period of three years and the aid paid out within four years from the date of the occurrence of the damaging event.
5. The eligible costs shall be the costs incurred as a direct consequence of the event that caused the damage as assessed by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking.

The eligible costs may include the following:

- (a) animals killed or plants destroyed: the eligible costs are based on the market value of the animals 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) the material damage to the following assets: farm equipment, machinery and farm buildings and stocks; the calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the event that caused the damage; it shall 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.
6. The damage shall be calculated at the level of the individual beneficiary.

The amount shall be reduced by any costs not incurred as a consequence of the event causing the damage, which would otherwise have been incurred by the beneficiary.

7. A minimum effort from the beneficiaries shall be requested by the competent Member State authorities to mitigate the risk of distortions of competition and to provide an incentive for minimising the risk. This effort shall 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, unless such measures are not reasonably possible. This paragraph shall not apply to the first attack of a protected animal in a given area.
8. Aid under this Article shall be limited to 100 % of the eligible costs.

9. The aid and any other payments received to make good the damage, including payments under other national or Union measures or insurance policies for the damage receiving aid, shall be limited to 100 % of the eligible costs.

#### Article 30

##### **Aid for conservation of genetic resources in agriculture**

1. Aid for the conservation of genetic resources in agriculture, linked to agri-environmental-climate commitments shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. For the purposes of this Article the following definitions shall apply:

- (a) 'in situ conservation' 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) 'on-farm conservation' means in situ conservation and development at farm level;
- (c) 'ex situ conservation' means the conservation of genetic material for agriculture outside their natural habitat;
- (d) 'ex situ collection' means a collection of genetic material for agriculture maintained outside their natural habitat.

3. Commitments to rear local breeds in danger of being lost to farming or to preserve plant genetic resources under threat of genetic erosion shall include one of the following:

- (a) to rear farm animals of local endangered breeds;
- (b) to preserve plant genetic resources naturally adapted to the local and regional conditions and under threat of genetic erosion.

4. Local breeds shall be considered endangered breeds if the conditions set out in Article 2, point (24) of Regulation (EU) 2016/1012 are fulfilled and if those conditions are also set out and included in the information to be provided to the Commission in accordance with Article 9(1) of this Regulation.

5. The following species of farm animals shall be eligible for aid: cattle; sheep; goats; equidae; pigs; birds; rabbits and bees.

6. Plant genetic resources shall 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 information to be published pursuant to Article 9(1), point (b).

7. The aid shall cover 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, 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.

8. The aid shall be limited to 100 % of the eligible costs.

*Article 31***Aid for animal welfare commitments**

1. Aid for animal welfare commitments shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The aid shall be granted to undertakings which undertake, on a voluntary basis, to carry out operations consisting of one or more animal welfare commitments referred to in paragraph 7.
3. Member States shall provide aid only for commitments which go beyond the relevant mandatory standards established by Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115 and other relevant mandatory requirements established by national and Union law.
4. Aid under this Article shall be granted only for commitments that are different from commitments in respect of which payments are granted under Article 31 of Regulation (EU) 2021/2115.
5. All mandatory standards and requirements referred to in paragraphs 3 and 4 of this Article shall be identified and described in the national legal basis.
6. Where national law imposes new requirements which go beyond the corresponding minimum requirements laid down in Union law, support 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.
7. Animal welfare commitments eligible to receive aid shall 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.
8. The animal welfare commitments shall 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.
9. The renewal of a commitments contracts can be also automatic, if its details are described in the contract. The mechanism of renewal of the animal welfare commitments shall be set up by the Member States in accordance with the relevant national rules. Such mechanism shall be described in the national legal basis. The renewal shall always be subject to respect of conditions pursuant to this Article.
10. Member States shall ensure that the undertakings carrying out operations under this Article 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.
11. For commitments undertaken pursuant to this Article, the Member State shall provide a revision clause in order to ensure their adjustment in the case of amendments of the relevant mandatory requirements and standards referred to in paragraphs 3 and 7.

12. The aid shall be granted annually in order to compensate for all or part of the additional costs and income foregone resulting from the animal welfare commitments.

13. The aid shall be limited to 100 % of the costs referred to in paragraph 12 and shall not exceed EUR 500 per livestock unit.

#### Article 32

##### **Aid for cooperation in the agricultural sector**

1. Aid for cooperation in the agricultural sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. Aid shall only be granted to promote cooperation, which contributes to achieving one or more of the objectives set out in Article 6(1) and (2) of Regulation (EU) 2021/2115.

3. Forms of cooperation covered by this Article shall involve at least two actors irrespective of whether they are active in the agricultural sector, but subject to the cooperation benefitting mainly the agricultural sector.

4. The following forms of cooperation shall be eligible:

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

(b) the creation of clusters and networks;

(c) farm succession, in particular for generational renewal at farm level (aid shall be limited 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).

5. Aid shall not be granted for cooperation solely involving research bodies.

6. Aid may be granted for cooperation relating to the following activities:

(a) pilot projects;

(b) the development of new products, practices, processes and technologies in the agricultural and food sectors 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 chains 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 <sup>(44)</sup> 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 referred to in Article 31(2), point (b), of Regulation (EU) 2021/1060, of local development strategies other than those referred to in Article 32 of Regulation (EU) 2021/1060.

7. Aid shall only be granted to new forms of cooperation, including existing ones if starting a new activity.

8. Aid for the establishment and development of short supply chains, as referred to in paragraph 6, points (d) and (e), shall cover only supply chains involving no more than one intermediary between farmer and consumer.

<sup>(44)</sup> 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 Article 14 are complied with.

9. Aid under this Article shall comply with Articles 206 to 210a of Regulation (EU) No 1308/2013.
10. Operations which consist of investments shall comply with the rules and requirements, as specified in the applicable Article on investment aid of this Regulation, as well as Article 4 on notification thresholds.
11. The following costs shall be eligible, in so far as they concern agricultural activities:
  - (a) the costs of preparatory support, capacity building, training and networking with a view of preparing and implementing a cooperation project;
  - (b) 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;
  - (c) the running costs of cooperation;
  - (d) the costs of operations to be implemented, including costs linked to animation;
  - (e) the costs for promotion activities.
12. Aid shall be limited to a maximum period of seven years.
13. The aid shall be limited to 100 % of the eligible costs.
14. In case of operations referred to in paragraph 11, point (d), which consist of investments, aid shall be limited to the maximum aid intensity of investment aid, as specified in the relevant Article on investment aid.

## Section 2

### **Aid for environmental protection in agriculture**

#### *Article 33*

##### **Aid for disadvantages related to Natura 2000 areas**

1. Aid for disadvantages related to Natura 2000 agricultural areas shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The aid shall be granted annually and per hectare of agricultural land in order to compensate beneficiaries for additional costs and income foregone, resulting from disadvantages in the agricultural areas directly impacted by the implementation of Directive 92/43/EEC and Directive 2009/147/EC.
3. Aid shall only be granted in relation to disadvantages resulting from requirements that go beyond the relevant Good Agricultural and Environmental Conditions ('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(1), point (a) of Regulation (EU) 2021/2115.
4. Aid shall be paid only in relation to the following agricultural areas:
  - (a) Natura 2000 agricultural areas;
  - (b) other delimited nature protection areas with environmental restrictions applicable to farming, which contribute to the implementation of Article 10 of Directive 92/43/EEC; these areas shall not exceed 5 % of the designated Natura 2000 areas covered by the territorial scope of the relevant CAP Strategic Plan.
5. The aid intensity shall be limited to 100 % of the costs referred to in paragraph 2 and shall not exceed EUR 500 per hectare per year in the initial period of maximum five years and EUR 200 per hectare per year thereafter.



*Article 34***Aid for agri-environmental-climate commitments**

1. Aid for agri-environmental-climate commitments shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The aid may be granted to all undertakings and groups of such undertakings which undertake, on a voluntary basis, to carry out operations consisting of one or more of the commitments referred to in paragraph 1 with a view to preserving and promoting the necessary changes to agricultural practices that make a positive contribution to the environment and climate.
3. Member States shall provide aid only for commitments which go 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.
4. All mandatory standards and requirements referred to in paragraph 3 shall be identified and described in the national legal basis.
5. For commitments referred to in paragraph 3, point (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.
6. Member States shall ensure that the undertakings receiving aid under this Article 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.
7. Commitments under this Article shall 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. 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.
8. Aid for agri-environmental-climate commitments to beneficiaries other than undertakings active in the agricultural sector may be granted under Section 7.
9. Commitments to extensify livestock farming shall comply with at least the following conditions:
  - (a) the whole grazed area of the holding shall be managed and maintained to avoid over- and under-grazing;
  - (b) livestock density shall 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.
10. Aid 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. Result-based carbon farming schemes shall ensure that quality criteria regarding quantification, additionality, long-term storage and sustainability are complied with, also taking into account the Communication on Sustainable Carbon Cycles<sup>(45)</sup> as regards the certification of carbon removals.
11. For commitments undertaken pursuant to this Article, the Member State shall provide a revision clause in order to ensure their adjustment in the case of amendments to the relevant mandatory requirements, standards and conditions referred to in paragraphs 3, 4 and 9.
12. The aid shall be granted annually in order to compensate for all or part of the additional costs and income foregone, resulting from the agri-environmental-climate commitments.

<sup>(45)</sup> Communication of the Commission of 15 December 2021 on Sustainable Carbon Cycles (COM(2021) 800 final).

13. No aid under this Article shall be granted for commitments that fall within the scope of Article 35.
14. Aid shall be paid per hectare.
15. The aid shall be limited to 100 % of the eligible costs and shall not exceed EUR 600 per hectare per year for annual crops, EUR 900 per hectare per year for specialised perennial crops and EUR 450 per hectare per year for other land uses.

#### Article 35

##### **Aid for organic farming**

1. Aid for organic farming shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. Aid may be granted to all 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 (EU) 2018/848.
3. Member States shall provide aid only for commitments which go 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, 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) of Regulation (EU) 2021/2115.
4. All such mandatory standards and requirements shall be identified and described in the national legal basis.
5. For commitments referred to in paragraph 3, point (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.
6. Commitments referred to in paragraph 3 shall be carried out over an initial period of five to seven years. 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 completed in the initial period, Member States may determine a shorter period of at least one year.
7. Member States shall ensure that the undertakings carrying out operations under this Article 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.
8. For commitments undertaken pursuant to this Article, the Member State shall provide a revision clause in order to ensure their adjustment in the case of amendments to the relevant mandatory requirements, standards and conditions referred to in paragraph 3.
9. The aid shall be granted annually in order to compensate for all or part of the additional costs and income foregone resulting from the commitments. Aid under this Article shall not be granted for commitments covered by Article 34, or for costs covered by Article 20.
10. Aid for investment in primary production and the processing and marketing of organic products shall be subject to the provisions of Articles 14 and 17.
11. The aid shall be limited to 100 % of the eligible costs and shall not exceed EUR 600 per hectare per year for annual crops, EUR 900 per hectare per year for specialised perennial crops and EUR 450 per hectare per year for other land uses.

## Section 3

**Aid for investments in favour of conservation of cultural and natural heritage**

## Article 36

**Aid for investments in favour of the conservation of cultural and natural heritage located on agricultural holdings or in forests**

1. Aid for investments aimed at the conservation of cultural and natural heritage located on agricultural holdings or in forests shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the relevant conditions laid down in this Article and in Chapter I of this Regulation.
2. Aid may be granted for investments aimed at the conservation of cultural and natural heritage located on agricultural holdings or in forests.
3. The aid shall be granted for the conservation of cultural and natural heritage in the form of natural landscapes and buildings, which is formally recognized as cultural or natural heritage by the competent public authorities of the Member State concerned.
4. The aid shall cover the following eligible costs intended for the conservation of cultural and natural heritage:
  - (a) investment costs in tangible assets;
  - (b) capitalised works.
5. The aid intensity shall be limited to 100 % of the eligible costs.
6. Aid for capitalised works shall be limited to EUR 10 000 per year.

## Section 4

**Aid to make good the damage caused by natural disasters in the agricultural sector**

## Article 37

**Aid to make good the damage caused by natural disasters in the agricultural sector**

1. Aid schemes to make good the damage caused by natural disasters shall be compatible with the internal market within the meaning of Article 107(2), point (b), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where they fulfil the conditions laid down in this Article and in Chapter I of this Regulation.
2. Aid shall be subject to the following conditions:
  - (a) it shall be paid only when the competent authority of the Member State has formally recognised the character of the event as a natural disaster;
  - (b) when there is a direct causal link between the natural disaster and the damage suffered by the undertaking.
3. The aid shall 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 shall not exceed the amount of aid to which that undertaking is eligible.

4. Aid schemes related to a natural disaster shall be established within three years and the aid paid out within four years from the date of the occurrence of the natural disaster.
5. The eligible costs shall be the damage incurred as a direct consequence of the natural disaster, as assessed by a public authority, by an independent expert recognised by the granting authority or by an insurance undertaking.
6. The damage incurred due to the natural disaster shall be calculated at the level of the individual beneficiary.
7. The aid may relate to the following:
  - (a) the loss of income resulting from the full or partial destruction of the agricultural production and the means of production as referred to in paragraph 8;
  - (b) material damage as referred to in paragraph 9.

8. The loss of income shall be calculated by subtracting:
- (a) the result of multiplying the quantity of the agricultural products produced in the year of the natural disaster, 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 a three year average based on the five-year period preceding the natural disaster, excluding the highest and lowest entry by the average selling price obtained.

Where an SME was set up less than three years from the date of the occurrence of the natural disaster, the reference to the three-year period in paragraph 8, point (b) shall be understood as referring to the quantity produced and sold by an average undertaking of the same size as the applicant, namely a micro enterprise or a small enterprise or a medium enterprise, respectively, in the national or regional sector affected by the natural disaster.

The loss of income may be calculated either at annual farm production level or at crop or livestock level.

That amount may be increased by other costs incurred by the beneficiary directly linked to the natural disaster.

That amount shall be reduced by any costs not incurred because of the natural disaster.

Indexes may be used in order to calculate the annual agricultural production of the beneficiary provided that the calculation method used permits the determination of the real loss of the beneficiary in the given year.

9. The material damage to assets such as farm buildings, equipment and machinery, stocks and means of production caused by the natural disaster shall be calculated on the basis of the repair cost or economic value of the affected asset immediately before the disaster.

It shall not exceed the repair cost or the decrease in fair market value caused by the disaster, namely the difference between the asset's value immediately before and immediately after the disaster.

10. The aid and any other payments received to compensate the losses, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

## Section 5

### **Aid for research development and innovation**

#### *Article 38*

#### **Aid for research and development in the agricultural and forestry sectors**

1. Aid for research and development projects in the agricultural and forestry sectors and sub-sectors shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The aided project shall be of general interest to all undertakings active in the sector or sub-sector concerned as referred to in paragraph 1.
3. Prior to the date of the start of the aided project the following information shall be published on a publicly accessible website at national or regional level:
  - (a) that the aided project is to be carried out;
  - (b) the goals of the aided project;
  - (c) an approximate date for the publication of the expected results of the aided project;
  - (d) the place of publication of the expected results of the aided project on the internet;
  - (e) that the results of the aided project will be available at no cost to all undertakings active in the sector or sub-sector concerned.
4. The results of the aided project shall be made available on a publicly accessible website 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 shall remain available on the internet for a period of at least five years starting from the end date of the aided project.

5. The aid shall be granted directly to the research and/or knowledge-dissemination organisation.
6. The aid shall not involve payments to undertakings active in the agricultural or forestry sector based on the price of the agricultural or forestry products.
7. The eligible costs shall be the following:
  - (a) personnel costs related to researchers, technicians and other supporting staff to the extent employed on the project;
  - (b) costs of instruments and equipment to the extent and for the period used for the project; where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible;
  - (c) costs of buildings and land, to the extent and for the duration period used for the project and under the following conditions:
    - (i) 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;
    - (ii) 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, 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.
8. Where a research, and/or knowledge-dissemination organisation also pursues economic activities the financing, the costs and the revenues of those economic activities shall be accounted for separately.
9. Undertakings that can exert influence upon research and/or knowledge-dissemination organisation, in the quality of, for example, shareholders or members, may not enjoy a preferential access to its research capacities or to the results generated by it.
10. The aid intensity shall be limited to 100 % of the eligible costs.

#### Article 39

##### **Aid for costs incurred by undertakings participating in EIP Operational Group projects**

1. Aid for costs incurred by undertakings participating in EIP Operational Group projects covered by Article 127 of Regulation (EU) 2021/2115, shall be compatible with the internal market within the meaning of Article 107(3), point (c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The following costs shall be eligible for EIP Operational Group projects:
  - (a) the costs of preparatory support, capacity building, training and networking with a view to preparing and implementing an EIP Operational Group project;
  - (b) implementation of approved operations;
  - (c) preparation and implementation of the group's cooperation activities;
  - (d) running costs linked to the management of the implementation of EIP Operational Group project;
  - (e) animation of the EIP community in order to facilitate exchange between stakeholders to provide information and to promote the projects, and to support potential beneficiaries with a view of developing operations and preparing applications.
3. The aid intensity shall not exceed the maximum support rates provided for each type of operation in Regulation (EU) 2021/2115.

*Article 40***Limited amounts of aid to undertakings benefitting from EIP Operational Group projects**

1. Aid to undertakings participating in, or benefitting from, EIP Operational Group projects, as referred to in Article 39(1) of this Regulation, shall be compatible with the internal market within the meaning of Article 107(3), point (c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The total amount of aid granted per EIP Operational Group projects shall not exceed EUR 500 000.

*Section 6***Aid in favour of forestry***Article 41***Aid for afforestation and the creation of woodland**

1. Aid for afforestation and the creation of woodland shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. Aid for afforestation and the creation of woodland shall cover the costs of establishment and an annual premium per hectare.

The aid for afforestation and the creation of woodland may cover investment operations.

3. Aid for afforestation and the creation of woodland related to investment operations shall cover the following eligible costs:
  - (a) the construction, acquisition, including leasing, or improvement of immovable property, with purchase of land only being eligible to an extent not exceeding 10 % of the total eligible costs of the operation concerned with the exception of land purchase if the aid is granted in the framework of a CAP Strategic Plan;
  - (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 shall remain eligible expenditure even where, based on the results of those studies, 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 acquisitions of patents, licences, copyrights, trademarks;
  - (e) the costs of establishing forest management plans or equivalent instruments.

Aid which is granted in the framework of a CAP Strategic Plan and which is provided in the form of financial instruments may cover eligible costs other than those referred to in the first subparagraph, provided that the costs are fully eligible under the relevant CAP Strategic Plan and that the aid is put into effect after the approval of the relevant Strategic Plan by the Commission.

Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, working capital shall not be considered to be an eligible cost.

4. For investment operations requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.

5. The following costs of establishment shall be eligible:
- (a) the costs of the plantation and propagation material;
  - (b) the plantation costs and the costs directly linked to the plantation;
  - (c) the costs of other related operations such as storing and treatment of seedlings with the necessary prevention and protection materials;
  - (d) the costs of replacement of die-off during the first year and the replacement of small-scale die-off during the first years following plantation. The costs of the replacement of large-scale die-off may only be supported under Article 43.
6. The annual premium per hectare shall cover the costs for the income foregone and the costs of maintenance, including early and late cleanings, for a maximum period of 12 years from the date of granting the aid.
7. Aid shall not be granted for planting the following trees:
- (a) trees for short rotation coppicing;
  - (b) Christmas trees;
  - (c) fast growing trees for energy production;
  - (d) species non-native to the area, save where support is provided in the framework of the CAP Strategic Plan;
  - (e) investments in afforestation which are not consistent with climate and environmental objectives in accordance with sustainable forest management principles, as developed in the Pan-European Guidelines for Afforestation and Reforestation <sup>(46)</sup>.
8. The species planted shall be adapted to the environmental and climatic conditions of the area and comply with minimum environmental requirements referred to in point (12).
9. In areas where afforestation is difficult due to severe pedo-climatic conditions, aid may be provided for planting perennial woody species such as shrubs or bushes suitable to the local conditions.
10. Aid for large enterprises shall be conditional on the presentation of relevant information from a forest management plan or equivalent instrument in accordance with the General Guidelines for the Sustainable Management of Forests in Europe <sup>(47)</sup>.

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.

11. The aid intensity shall be limited to 100 % of the eligible costs.
12. The following minimum environmental requirements shall apply in the context of aid for afforestation and the creation of woodland:
- (a) the selection of species to be planted, of areas and of methods to be used shall avoid the inappropriate afforestation of sensitive habitats such as peat lands and wetlands and negative effects on areas of high ecological value including areas under high natural value farming. Pursuant to Directive 92/43/EEC and Directive 2009/147/EC on sites designated as Natura 2000 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 shall be allowed;
  - (b) the selection of species, varieties, ecotypes and provenances of trees shall 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 shall 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 shall 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 shall define the minimum and maximum time before felling. The minimum time shall not be less than 8 years and the maximum shall not exceed 20 years;

<sup>(46)</sup> <https://foresteurope.org/wp-content/uploads/2016/08/Pan-EuropeanAfforestationReforestationGuidelines.pdf>

<sup>(47)</sup> General Guidelines for the Sustainable Management of Forests in Europe adopted at the Second Ministerial Conference on the Protection of Forests in Europe held in Helsinki on 16-17 June 1993 ([https://www.foresteurope.org/docs/MC/MC\\_helsinki\\_resolutionH1.pdf](https://www.foresteurope.org/docs/MC/MC_helsinki_resolutionH1.pdf)).

- (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 shall 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 shall consist of either of the following:
  - (i) the planting of ecologically adapted species 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.

#### Article 42

#### **Aid for agroforestry systems**

1. Aid for agroforestry systems shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. Aid for agroforestry systems shall cover the costs of establishment, regeneration or renovation and an annual premium per hectare.
3. Aid for agroforestry systems may cover investment operations.
4. Save where support is provided in the form of financial instruments, aid for agroforestry systems related to investment operations shall cover the following eligible costs:
  - (a) the construction, acquisition, including leasing, or improvement of immovable property, with purchase of land only being eligible to an extent not exceeding 10 % of the total eligible costs of the operation concerned with the exception of land purchase if the aid is granted in the framework of a CAP Strategic Plan;
  - (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 shall remain eligible expenditure even where no expenditure as referred under in 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, trademarks;
  - (e) the costs of establishing forest management plans or equivalent instrument.

Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, working capital shall not be considered to be an eligible cost.

5. For investment operations requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.

The first subparagraph shall not apply to aid which is provided in the form of financial instruments.

6. The following costs for establishment, regeneration or renovation of the agroforestry system shall be eligible:
  - (a) the costs for planting trees, including the costs of the plantation material, the plantation, the storing and the treatments of seedlings with the necessary prevention and protection materials;
  - (b) the costs for converting existing forests or other wooded land, including the costs for felling trees, thinning and pruning and protection against grazing animals;



- (c) other costs directly linked to the establishment, regeneration or renovation of an agroforestry system, such as costs for feasibility studies, establishment plan, soil examination, soil preparation and protection;
  - (d) the costs of silvopastoral, namely grazing system, watering and protective facilities;
  - (e) the costs of the necessary treatment connected to the establishment, regeneration or renovation of an agroforestry system, including watering and cutting;
  - (f) the costs for replanting during the first year after the establishment, regeneration or renovation of an agroforestry system.
7. The annual premium per hectare shall cover the costs of maintenance of the agroforestry system, and shall be paid for a maximum period of 12 years from the date of granting the aid.

The eligible costs of maintenance may relate to the established tree belts, the weeding, pruning and thinning and protective actions and investments such as fences or individual protection tubes.

8. Member States shall determine the structure and composition of the agroforestry system, taking account of the following:
- (a) local pedo-climatic and environmental conditions;
  - (b) forestry species;
  - (c) the need to ensure sustainable agricultural use of the land.
9. The maximum aid intensity shall be limited to 100 % of the eligible costs.

#### Article 43

#### **Aid for the prevention and restoration of damage to forests**

1. Aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests, catastrophic events, climate change-related events, shall be compatible with the internal market within the meaning of Article 107(2), point (b), or respectively Article 107(3), point (c), of the Treaty, and shall be exempted from the notification requirement of Article 108(3) thereof, where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The aid shall cover the following eligible costs:
- (a) the establishment of protective infrastructure, including maintenance costs in the case of firebreaks;
  - (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 and diseases monitoring facilities and communication equipment;
  - (d) restoring forestry potential damaged by fires, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests, catastrophic events and climate change-related events.
3. The aid shall not be granted for agricultural related activities in areas covered by commitments referred to in Article 34.
4. Only forest areas belonging to the forest protection plan established by the Member State concerned shall be eligible for aid for prevention of fire.
5. In the case of the restoration of forestry potential referred to in paragraph 2, point (d), the aid shall be subject to the following conditions:
- (a) the formal recognition by the competent authorities of the Member State concerned that the fire, natural disaster, adverse climatic event which can be assimilated to a natural disaster, other adverse climatic event, plant pest, catastrophic event or climate change related event has occurred and to the submission by the beneficiaries of proof of appropriate risk management tools to address the potential occurrence of the damaging event in the future where appropriate;
  - (b) the formal recognition by the competent authorities of the Member State concerned that the measures in accordance with Regulation (EU) 2016/2031 to combat, eradicate or contain a plant pest have been implemented;

(c) in the case of aid under Article 107(3), point (c), of the Treaty, submission by the beneficiaries of proof that such restoration will include adaptation measures to climate change, unless such adaptation measures form an integral part of the scheme and apply to all beneficiaries.

6. In the case of aid for prevention of damage to a forest from plant pests, the risk of occurrence of the plant pest shall be supported by scientific evidence and acknowledged by a scientific public organisation.

The list of species of plant pest which cause or may cause damage shall be included in the aid scheme or ad hoc aid submitted by the relevant Member State.

7. The aided activities or projects shall be consistent with the forest protection plan established by the Member State.

In the case of the restoration of forestry potential referred to in paragraph 2, point (d), the aid for large enterprises shall be conditional on the presentation of relevant information from a forest management plan or equivalent instrument in accordance with the General Guidelines for the Sustainable Management of Forests in Europe. 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.

8. Aid shall not be granted for loss of income resulting from fire, natural disasters, adverse climatic events which can be assimilated to a natural disaster, other adverse climatic events, plant pests, catastrophic events and climate change-related events.

9. The aid intensity shall be limited to 100 % of the eligible costs.

Aid granted for the eligible costs as referred to in paragraph 2, point (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 shall be limited to 100 % of the eligible costs.

#### Article 44

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

1. Aid for investments improving the resilience and environmental value of forest ecosystems shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. Investments shall be aimed at the achievement of commitments for environmental aims, for provision of ecosystem services or enhancement of the public amenity value of forest and wooded land in the area concerned or the improvement of the climate change mitigation and adaptation potential of ecosystems, without excluding economic benefits in the long term. Species non-native to the area shall be excluded, save where support is provided in the framework of the CAP Strategic Plan.

3. For investments requiring an environmental impact assessment under Directive 2011/92/EU, the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid. However, aid provided in the form of financial instruments shall be exempt from that condition.

4. Except where support is provided in the form of financial instruments, the aid shall cover the following eligible costs:

(a) the construction, acquisition, including leasing, or improvement of immovable property, with purchase of land only being eligible to an extent not exceeding 10 % of the total eligible costs of the operation concerned with the exception of land purchase if the aid is granted in the framework of a CAP Strategic Plan;

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

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

- (d) the acquisition, development or usage fees of computer software, cloud and similar solutions, and the acquisitions of patents, licenses, copyrights and trademarks;
- (e) the costs of establishing forest management plans or equivalent instrument;
- (f) the costs of the plantation and propagation material;
- (g) the plantation costs and the costs directly linked to the plantation;
- (h) the costs of other related operations such as storing and treatment of seedlings with the necessary prevention and protection materials;
- (i) the costs of replacement of die-off during the first year and the replacement of small-scale die-off during the first years following plantation. The costs of the replacement of large-scale die-off may only be supported under Article 43.

5. Save where support is provided in the form of financial instruments, costs other than those referred to in paragraph 4, points (a) and (b), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.

Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, working capital shall not be considered to be an eligible cost.

6. The aid intensity shall be limited to 100 % of the eligible costs.

#### Article 45

##### **Aid for area-specific disadvantages resulting from certain mandatory requirements**

1. Aid related to area-specific disadvantages imposed by requirements resulting from the implementation of Directive 92/43/EEC or Directive 2009/147/EC granted to forest holders, forest managers and their associations shall be compatible with the internal market within the meaning of Article 107(3), point (c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The aid shall be granted annually and per hectare of forest area in order to compensate beneficiaries for additional costs and income foregone, resulting from disadvantages in the forest areas referred to in paragraph 3, related to the implementation of Directive 92/43/EEC and Directive 2009/147/EC.

3. Aid shall be paid only in relation to the following forestry areas:

- (a) Natura 2000 forest areas;
- (b) features of the landscape which contribute to the implementation of Article 10 of Directive 92/43/EEC, which shall not exceed 5 % of the areas included in the Natura 2000 network covered by the territorial scope of the Strategic Plan concerned.

4. Aid may be granted to forest holders, forest managers and their associations.

5. The aid intensity shall be limited to 100 % of the costs referred to in paragraph 2 and shall not exceed EUR 500 per hectare per year in the initial period not exceeding five years and EUR 200 per hectare per year thereafter.

#### Article 46

##### **Aid for forest-environmental-climate services and forest conservation**

1. Aid for forest-environmental and climate services and for forest conservation shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. Aid shall cover only voluntary management commitments targeted at achieving one or more of the climate- and environment-related specific objectives set out in Article 6(1) of Regulation (EU) 2021/2115 which go beyond the relevant mandatory requirements established by national forestry legislation or other relevant national or Union legislation.

3. All mandatory requirements referred to in paragraph 2 shall be identified and described in the national legal basis.

4. Commitments shall be undertaken for a period of between five and seven years. However, where necessary and duly justified, Member States may provide for a longer period for particular types of commitments.
5. For commitments undertaken pursuant to this Article, the Member State shall provide a revision clause in order to ensure their adjustment in the case of amendments to the relevant mandatory requirements referred to in paragraph 2.
6. The aid shall compensate beneficiaries for all or part of the additional costs and income foregone as a result of undertaking the commitments referred to in paragraph 2.
7. The aid intensity shall be limited to 100 % of the eligible costs and shall not exceed EUR 200 per hectare per year.
8. Where aid is provided for under a Strategic Plan, the maximum amount provided for in paragraph 7 may be increased in exceptional cases, taking into account specific circumstances as provided for in that Strategic Plan.

#### Article 47

##### **Aid for knowledge exchange and information actions in the forestry sector**

1. Aid for knowledge exchange and information actions in favour of undertakings active in the forestry sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

Member States shall ensure that actions supported under this Article are consistent with the description of the AKIS provided in the CAP Strategic Plan.

2. Aid shall cover vocational training and skills acquisition actions, including training courses, workshops and coaching, demonstration activities, information actions, and promotion of innovation.

Aid may also cover short-term forest management exchanges and forest visits which shall 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.

3. The aid shall cover the following eligible costs:

(a) the costs of organising and delivering the knowledge exchange or information action;

(b) in the case of demonstration projects related to investments:

(i) the construction, acquisition, including leasing, or improvement of immovable property, with land purchase only being eligible to an extent not exceeding 10 % of the other total eligible expenditure of the operation concerned with the exception of land purchase if the aid is granted in the framework of a CAP Strategic Plan;

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

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

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

(c) the costs for travel, accommodation and per diem expenses of the participants.

Working capital shall not be considered to be an eligible cost.

4. The costs referred to in paragraph 3, point (b), shall only be eligible to the extent incurred for the demonstration project and for the duration period of the demonstration project.

5. Only the depreciation costs corresponding to the life of the demonstration project, as calculated on the basis of generally accepted accounting principles, shall be eligible.

6. The aid referred to in paragraph 3, point (a), shall not involve direct payments to beneficiaries. The aid shall be paid to the provider of the knowledge exchange and information actions.
7. Bodies providing knowledge exchange and information actions shall have the appropriate capacities in the form of staff qualifications and regular training to carry out such tasks.
8. The aid shall be limited to 100 % of the eligible costs.

#### Article 48

##### **Aid for advisory services in the forestry sector**

1. Aid for advisory services in the forestry sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The services concerned shall not be a continuous or periodic activity nor relate to the undertaking's operating costs. Advisory services shall cover economic, environmental and social dimensions and deliver up to date technological and scientific information developed by research and innovation.

Member States shall ensure that actions supported under this Article are consistent with the description of the AKIS provided in the CAP Strategic Plan.

3. The Member States shall ensure that the system of advisory services covers as a minimum issues related to the implementation of Directive 92/43/EEC, Directive 2000/60/EC, Directive 2008/50/EC, Directive 2009/147/EC, Regulation (EU) 2016/2031, Article 55 of Regulation (EC) No 1107/2009 and Directive 2009/128/EC.

4. The aid shall take the form of subsidised service.

The bodies selected to provide the advisory service shall have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields in which they advise.

5. Member States shall ensure that the provider of the advisory service is impartial and has no conflict of interest.

6. Where justified and appropriate, the advice may be partly provided in group, while taking into account the situation of the individual beneficiaries of the advisory services.

7. The aid shall be limited to 100 % of the eligible costs, and shall not exceed EUR 200 000 per undertaking within any three-year period.

#### Article 49

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

1. Aid for investments in infrastructure related to the development, modernisation or adaptation of the forestry sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.

The first subparagraph shall not apply to aid which is provided in the form of financial instruments.

3. Aid for large enterprises shall be conditional on the presentation of relevant information from a forest management plan or equivalent instrument in accordance with the General Guidelines for the Sustainable Management of Forests in Europe.

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.

4. The aid may cover investments which concern infrastructure related to the development, modernisation or adaptation of forests. If the aid is granted outside the framework of a CAP Strategic Plan it shall only include the following:

- (a) access to forest land;

- (b) land consolidation and improvement;
- (c) supply of sustainable energy, energy efficiency, supply and saving of water;
- (d) the use of livestock instead of machinery;
- (e) the establishment of temporary storage facilities.

5. The aid shall cover the following eligible costs:

- (a) the construction, acquisition, including leasing, or improvement of immovable property, with purchase of land only being eligible to an extent not exceeding 10 % of the other total eligible expenditure of the operation concerned, with the exception of land purchase for environmental conservation if the aid is granted in the framework of a CAP Strategic Plan;
- (b) the purchase or lease purchase of machinery and equipment including the use of the livestock instead of machinery 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 shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;
- (d) acquisition, development or usage fees of computer software, cloud or similar solutions and acquisitions of patents, licenses, copyrights and trademarks;
- (e) the costs of establishing forest management plans and their equivalent instruments.

6. Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, the following costs shall not be considered to be eligible:

- (a) costs other than those referred to in paragraph 5, points (a) and (b), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges; and
- (b) working capital.

7. The aid intensity shall be limited to 65 % of the eligible costs.

The aid intensity 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 Article 14(3), points (e), (f) and (g);
- (b) investments in the outermost regions or the smaller Aegean islands.

8. The aid intensity may be increased to 100 % for non-productive investments, land consolidation land improvement and investments for forest roads which are open to the public free of charge and which serve the multifunctional aspects of the forest.

#### Article 50

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

1. Aid for investments in forestry technologies and in processing, in mobilising and in marketing of forestry products shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.

3. Aid for large enterprises shall be conditional on the presentation of relevant information from a forest management plan or equivalent instrument in accordance with the General Guidelines for the Sustainable Management of Forests in Europe.
4. The aid shall cover the following eligible costs:
  - (a) the construction, acquisition, including leasing, or improvement of immovable property, with purchase of land only being eligible to an extent not exceeding 10 % of the other total eligible expenditure of the operation concerned, with the exception of land purchase for environmental conservation if the aid is granted in the framework of a CAP Strategic Plan;
  - (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 shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;
  - (d) acquisition, development or usage fees of computer software, cloud or similar solutions, and acquisitions of patents, licenses, copyrights and trademarks;
  - (e) the costs of establishing forest management plans and their equivalent.
5. Save where support is provided in the framework of a CAP Strategic Plan in the form of financial instruments, the following costs shall not be considered to be eligible:
  - (a) costs connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges; and
  - (b) working capital.
6. Investments related to the improvement of the economic value of forests shall be justified in relation to expected improvements to forests on one or more holdings and may include investments for soil and resource friendly harvesting machinery and practices.
7. Investments related to the use of wood as a raw material or energy source shall be limited to all working operations prior to industrial processing.
8. The aid intensity shall be limited to 65 % of the eligible costs.
9. The aid intensity 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 Article 14(3), points (e), (f) and (g);
  - (b) investments in the outermost regions or the smaller Aegean islands.

#### Article 51

#### **Conservation of genetic resources in forestry**

1. Aid for the conservation of genetic resources in forestry, linked to forest-environmental-climate services and forest conservation shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. For the purposes of this Article the following definitions shall apply:
  - (a) 'in situ conservation' 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;
  - (b) 'on-forest holding conservation' means in situ conservation and development at forest holding level;
  - (c) 'ex situ conservation' means the conservation of genetic material for forestry outside their natural habitat;
  - (d) 'ex situ collection' means a collection of genetic material for forestry maintained outside their natural habitat.

3. The aid shall cover 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 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 preparation of technical reports.
4. The aid shall be limited to 100 % of the eligible costs.

#### Article 52

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

1. Start-up aid to producer groups and organisations in the forestry sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation. The members of the producer group or of the producer organisation shall not be large enterprises, with the exception of municipalities.
2. As an alternative to providing aid to producer groups or organisations, aid up to the overall amount of aid to which the producer group or organisation would have been entitled to according to this Article, 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 establishment of the group or organisation.
3. The aid shall cover the following costs:
  - (a) costs of the rental of suitable premises, at market rates;
  - (b) costs for the acquisition of office equipment;
  - (c) administrative staff costs and costs of a qualified forest manager;
  - (d) overheads and legal and administrative fees;
  - (e) costs for acquisition of computer hardware and the acquisition or usage fees of computer software, cloud and similar solutions;
  - (f) in the case of purchase of premises, an amount corresponding to rental costs at market rates.
4. Aid shall not be paid in respect of costs incurred after the fifth year following the official recognition of the producer group or organisation by the competent authority of the Member State on the basis of its business plan, except for collective environment and climate actions to achieve the objectives referred to in Article 6 of Regulation (EU) 2021/2115.
5. Where the aid is paid in annual instalments, Member States shall only pay the last instalment after having verified the correct implementation of the business plan.
6. The aid intensity shall be limited to 100 % of the eligible costs.

#### Article 53

##### **Aid for forestry land consolidation**

1. Aid for forestry land consolidation shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The aid shall be granted towards and limited to the legal and administrative costs, including survey costs.



3. The aid shall be limited to 100 % of the real costs incurred.

*Article 54*

**Aid for cooperation in the forestry sector**

1. Aid for cooperation in the forestry sector shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. Aid shall 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.
3. Forms of cooperation covered by this Article shall involve at least two actors irrespective of whether they are active in the forestry sector or in the forestry and agricultural sectors. The cooperation shall benefit mainly the forestry sector or the forestry and agricultural sectors.
4. The following forms of cooperation shall be eligible:
  - (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 of Regulation (EU) 2021/2115, including producer groups, and cooperatives;
  - (b) the creation of clusters and networks.
5. Aid shall not be granted for cooperation solely involving research bodies.
6. 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 chains 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) 2021/1060, of local development strategies other than those referred to in Article 32 of that Regulation.
7. Aid shall only be granted to new forms of cooperation, including existing ones if starting a new activity.
8. Aid for the establishment and development of short supply chains, as referred to in paragraph 6, points (d) and (e), shall cover only supply chains involving no more than one intermediary between forest holder/manager and consumer.
9. Operations, which consist of investments and direct costs of specific projects linked to the implementation of a forest management plan or equivalent, shall comply with the rules and requirements, as specified in the applicable Article on investment aid of this Regulation, as well as Article 4 on notification thresholds.
10. The following costs shall be eligible, 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.

11. Aid shall be limited to a maximum period of seven years.

12. The aid shall be limited to 100 % of the eligible costs.

#### Section 7

### Aid in Favour of SMEs in Rural Areas

#### Article 55

#### Aid for basic services and infrastructure in rural areas

1. Aid for basic services and infrastructure in rural areas granted in the framework of a CAP Strategic Plan shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it is put into effect after the approval of the relevant CAP Strategic Plan by the Commission and where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The aid shall fulfil both of the following conditions:

(a) it is granted in the framework of a CAP Strategic Plan in accordance with Regulation (EU) 2021/2115 in one of the following forms:

(i) as aid co-financed by EAFRD;

(ii) as additional national financing to aid co-financed by EAFRD;

(b) it is identical to the relevant measure provided for in the CAP Strategic Plan referred to in point (a).

3. The aid shall cover:

(a) investments in the creation, improvement or expansion of all types of infrastructures with eligible costs limited to EUR 2 million ('small-scale infrastructure'), with the exception of investments in renewable energy and energy efficiency and broadband infrastructure which shall not be eligible;

(b) investments in the setting-up, improvement or expansion of local basic services for the rural population, including social services, leisure and culture, and the related infrastructure;

(c) investments for public use in recreational infrastructure, tourist information and small-scale tourism infrastructure;

(d) investments associated with the maintenance, restoration and upgrading of the cultural and natural heritage of villages, rural landscapes and high nature value sites, including related socioeconomic aspects, as well as environmental awareness actions;

(e) investments targeting the relocation of activities and conversion of buildings or other facilities located inside or close to rural settlements, with a view to improving the quality of life or increasing the environmental performance of the settlement.

4. The operations covered by the investments referred to in paragraph 3 shall be implemented in accordance with plans for the development of municipalities and villages in rural areas and their basic services, where such plans exist, and shall be consistent with any relevant local development strategy. Such plans are not required with regard to investments supported by financial instruments.

5. The aid shall cover the following eligible costs:

(a) the costs of drawing up and updating of development and management plans relating to rural areas and their basic services, and to high nature value sites;

(b) the costs for the preparation of studies associated with cultural and natural heritage, rural landscapes and high nature value sites;

(c) investment costs for tangible and intangible assets;

(d) costs linked to environmental awareness actions.

The costs of capitalised works may be also eligible for aid referred to in paragraph 3, point (d).

Working capital shall not be considered to be an eligible cost. The aid shall not be granted as operating aid.

6. As regards activities referred to in paragraph 3, points (a) to (d), the aid intensity shall be limited to 100 % of the eligible costs.

In order not to exceed the maximum aid intensity, for activities referred to in paragraph 3, points (b), (c) and (d), the net revenues shall be deducted from the eligible costs *ex ante* on the basis of reasonable projections or through a clawback mechanism. Alternatively, for aid not exceeding EUR 1 million, the maximum aid intensity may be set at 80 % of eligible costs.

7. As regards the investments referred to in paragraph 3, point (e), the aid intensity shall not exceed 100 % of the real costs incurred for such activities where the relocation of the activities or the conversion of buildings or other facilities consists of the dismantling, removal and re-building of existing facilities.

Where the relocation of the activities or the conversion of buildings or other facilities results in a modernisation of those facilities or in an increase in production capacity, in addition to the dismantling, removal and re-building of existing facilities as referred to in the first subparagraph, the aid intensities shall not exceed the maximum aid intensity established in the regional aid map which is in force at the time the aid is granted in the area concerned in respect of the costs relating to the modernisation of the facilities or the increase of production capacity. 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 considered to be related to the modernisation.

#### Article 56

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

1. Business start-up aid for non-agricultural activities in rural areas shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The aid shall fulfil both of the following conditions:

(a) it is granted in the framework of a CAP Strategic Plan in accordance with Regulation (EU) 2021/2115 in one of the following forms:

(i) aid co-financed by EAFRD;

(ii) additional national financing to the aid referred to in point (i);

(b) it is identical to the relevant measure provided for in the CAP Strategic Plan referred to in point (a).

3. Aid shall be granted to the following categories of beneficiaries:

(a) farmers or members of a farm household in rural areas diversifying into non-agricultural activities;

(b) micro and small enterprises in rural areas;

(c) natural persons in rural areas.

4. Where the member of a farm household as referred to in paragraph 3, point (a), is a legal person or a group of legal persons, it shall exercise an agricultural activity on the farm at the time the application for the aid is submitted.

5. The aid shall be conditional on the submission of a business plan to the competent authority of the Member State concerned.

The business plan shall describe the following:

(a) the initial economic situation of the beneficiary;

(b) milestones and targets for the development of the new activities of the beneficiary;

- (c) details of the actions required for the development of the activities of the beneficiary, such as details of investments, training, advice.

The business plan shall have a maximum duration of five years.

6. The payment of the last instalment shall be conditional upon the correct implementation of the business plan referred to in paragraph 5. Member States shall determine the amount of aid taking into account the socioeconomic situation of the area covered by the CAP Strategic Plan.

7. The aid shall be limited to EUR 100 000 per beneficiary.

#### Article 57

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

1. Aid for new participation, or participation in the five preceding years, of farmers in quality schemes for cotton and foodstuffs shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The aid shall fulfil both of the following conditions:

(a) it is granted in the framework of a CAP Strategic Plan in accordance with Regulation (EU) 2021/2115 in one of the following forms:

(i) aid co-financed by EAFRD;

(ii) additional national financing to the aid referred to in point (i);

(b) it is identical to the relevant intervention provided for in the CAP Strategic Plan referred to in point (a).

3. Aid shall be granted for new participation in one of the following types of quality schemes:

(a) quality schemes for cotton and foodstuffs established under Regulation (EU) No 1151/2012;

(b) quality schemes for cotton and foodstuffs, including certification schemes, recognised by the Member States as complying with the following criteria:

(i) the specificity of the final product produced under such quality schemes is derived from clear obligations to guarantee one or more of the following:

— specific product characteristics;

— specific farming or production methods;

— 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 scheme is open to all producers;

(iii) the scheme involves binding final product specifications and compliance with those specifications is verified by public authorities or by an independent inspection body;

(iv) the scheme is transparent and assures complete traceability of agricultural products;

(c) voluntary foodstuff certification schemes recognised by the Member State concerned as meeting the requirements laid down in the Commission Communication – EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs <sup>(48)</sup>.

4. The aid shall be granted in the form of an annual incentive payment, the level of which shall be determined according to the level of the fixed costs arising from participation in quality schemes.

5. The aid shall be granted for a maximum period of seven years.

6. If the initial participation in the quality scheme started before the application for support, the maximum period of seven years shall be reduced by the number of years which have elapsed between that initial participation and the time of the application for support.

<sup>(48)</sup> OJ C 341, 16.12.2010, p. 5.

7. The aid shall be limited to EUR 3 000 per beneficiary per year.

#### Article 58

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

1. Aid for information and promotion activities concerning cotton and foodstuffs covered by a quality scheme shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The aid shall fulfil both of the following conditions:
  - (a) it is granted in the framework of a CAP Strategic Plan in accordance with Regulation (EU) 2021/2115 in one of the following forms:
    - (i) aid co-financed by EAFRD;
    - (ii) additional national financing to the aid referred to in point (i);
  - (b) it is identical to the relevant measure provided for in the CAP Strategic Plan referred to in point (a).
3. The aid shall be granted to groups of producers implementing the information and promotion activities.
4. Only information and promotion activities that are implemented in the internal market shall be eligible for aid.
5. The aid shall be granted for information and promotion activities concerning cotton and foodstuffs which are covered by a quality scheme and for which aid is granted in accordance with Article 57.
6. The eligible costs shall be the costs for actions having the following characteristics:
  - (a) they are designed to induce consumers to buy the foodstuffs or the cotton covered by a quality scheme as referred to in Article 57(3);
  - (b) they draw attention to specific features or advantages of the foodstuff or the cotton, notably to the quality, specific production method, high animal welfare standards and respect for the environment linked to the quality scheme concerned.
7. The actions referred to in paragraph 6 shall not incite consumers to buy a foodstuff or cotton due to their particular origin, except for those covered by the quality schemes referred to in Title II of Regulation (EU) No 1151/2012.
8. The origin of the foodstuff or cotton may be indicated, provided that the mention of the origin is subordinate to the main message.
9. Information and promotion activities related to particular undertakings or commercial brands shall not be eligible for aid.
10. The aid intensity shall be limited to 70 % of the eligible costs.

#### Article 59

#### **Aid for cooperation in rural areas**

1. Aid for cooperation in rural areas shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. The aid shall fulfil both of the following conditions:
  - (a) it is granted in the framework of a CAP Strategic Plan in accordance with Regulation (EU) 2021/2115 in one of the following forms:
    - (i) aid co-financed by EAFRD;
    - (ii) additional national financing to the aid referred to in point (i);
  - (b) it is identical to the relevant measure provided for in the CAP Strategic Plan referred to in point (a).

3. Forms of cooperation covered by this Article shall involve at least two actors and may comprise undertakings active in the agricultural sector, undertakings active in the food chain and other actors, including producer groups, cooperatives and interbranch organizations, where the cooperation benefits rural areas.

4. The following forms of cooperation shall be eligible:

(a) cooperation between undertakings and other actors as referred to in paragraph 3 of this Article;

(b) the creation of clusters and networks.

5. Aid shall not be granted for cooperation solely involving research bodies.

6. Aid may be granted to cooperation relating to the following activities:

(a) pilot projects;

(b) the development of new products, practices, processes and technologies in the food sector;

(c) cooperation among small operators in organizing joint work processes and sharing facilities and resources and for the development and/or marketing of tourism services relating to rural tourism;

(d) horizontal and vertical 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 actions undertaken with a view to mitigating or adapting to climate change;

(g) joint approaches to environmental projects and ongoing environmental practices, including efficient water management, the use of renewable energy and the preservation of agricultural landscapes;

(h) horizontal and vertical cooperation among supply chain actors in the sustainable provision of biomass for use in food and energy production and industrial processes;

(i) implementation, in particular by groups of public and private partners other than those defined in Article 32(2), point (b), of Regulation (EU) No 1303/2013, of local development strategies other than those defined in Article 2, point (19), of Regulation (EU) No 1303/2013 addressing one or more of the Union priorities for rural development;

(j) diversification of farming activities into activities concerning health care, social integration, community-supported agriculture and education about the environment and food;

(k) implementation of smart-village strategies.

7. Aid shall only be granted to new forms of cooperation, including existing ones if starting a new activity.

8. Aid for pilot projects referred to in paragraph 6, point (a), and for the development of new products, practices, processes and technologies in the food sector referred to in paragraph 6, point (b), may also be granted to individual actors where this possibility is provided for in the national Strategic Plans. The results of pilot projects referred to in paragraph 6, point (a), and activities referred to in paragraph 6, point (b), carried out by individual actors shall be disseminated.

9. Aid for the establishment and development of short supply chains, as referred to in paragraph 6, points (d) and (e), shall cover only supply chains involving no more than one intermediary between farmer and consumer.

10. Aid under this Article shall comply with Articles 206 to 210a of Regulation (EU) No 1308/2013.

11. Aid shall be limited to a maximum period of seven years.

12. The following costs shall be eligible:
- (a) the costs of preparatory support, capacity building, training and networking with a view of preparing and implementing a cooperation project;
  - (b) costs for studies of the area concerned, feasibility studies, and the drawing up of a business plan or local development strategy other than the one referred to in Article 32 of Regulation (EU) 2021/1060;
  - (c) costs for the animation of the area concerned in order to make feasible a collective territorial project; in the case of clusters, the animation may also concern networking between members and the recruitment of new members;
  - (d) the running costs of cooperation, such as the salary of a coordinator;
  - (e) the direct costs of specific projects linked to the implementation of a business plan, an environmental plan, a local development strategy other than the one referred to in Article 32 of Regulation (EU) 2021/1060 or other actions targeted towards innovation, including testing;
  - (f) costs for promotion activities.
13. The aid shall be limited to 100 % of the eligible costs.
14. Direct costs under paragraph 12, point (e), which relate to investments, shall be limited to the eligible costs of investment aid, and shall comply with the conditions specified in the corresponding Articles of Regulation (EU) No 651/2014 and in the relevant Articles of this Regulation, including the specific conditions on notification thresholds.

#### Article 60

#### Aid for CLLD projects

1. Aid for costs incurred by SMEs participating in CLLD projects, referred to in Article 31 of Regulation (EU) 2021/1060 and designated as LEADER local development under the EAFRD, shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, where it fulfils conditions laid down in this Article and in Chapter I of this Regulation.

Aid for costs incurred by municipalities participating in CLLD projects, referred to in Article 31 of Regulation (EU) 2021/1060 and designated as LEADER local development under the European Agricultural Fund for Rural Development in favour of projects referred to in paragraph 3 of this Article, shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The following costs shall be eligible for CLLD projects:
- (a) the costs of preparatory support, capacity building, training and networking with a view of preparing and implementing a CLLD strategy;
  - (b) implementation of approved operations;
  - (c) preparation and implementation of the cooperation activities;
  - (d) running costs linked to the management of the implementation of the CLLD strategy;
  - (e) animation the CLLD strategy in order to facilitate exchange between stakeholders to provide information and to promote the strategy and the projects, and to support potential beneficiaries with a view of developing operations and preparing applications.
3. The costs incurred by municipalities participating in CLLD projects, referred to in paragraph 1, shall be eligible for aid under this Article provided that they are pursued in one or more of the following areas:
- (a) research, development and innovation;
  - (b) environment;

- (c) employment and training;
- (d) culture and heritage conservation;
- (e) forestry;
- (f) promotion of food products not listed in ANNEX I of the Treaty;
- (g) sports.

4. The aid intensity shall not exceed the maximum support rates provided for each type of operation in Regulation (EU) 2021/2115.

#### Article 61

##### **Limited amounts of aid for CLLD projects**

1. Aid to undertakings participating in, or benefitting from CLLD projects as referred to in Article 60(1), shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

Aid to municipalities participating in, or benefitting from CLLD projects as referred to in Article 60(1), shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, where it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.

2. The costs incurred by municipalities participating in CLLD projects, referred to in paragraph 1, shall be eligible for aid under this Article provided that they are pursued in one or more of the following areas:

- (a) research, development and innovation;
- (b) environment;
- (c) employment and training;
- (d) culture and heritage conservation;
- (e) forestry;
- (f) promotion of food products not listed in ANNEX I of the Treaty;
- (g) sports.

3. The total amount of aid under this Article granted per CLLD project shall not exceed EUR 200 000.

#### CHAPTER IV

##### **Transitional and final provisions**

#### Article 62

##### **Replacement and continued application of Regulation (EU) No 702/2014**

1. Article 52 of Regulation (EU) No 702/2014 states that that regulation shall apply until 31 December 2022. The present Regulation will replace Regulation (EU) No 702/2014 upon its expiry.

2. However, the rules set out in Regulation (EU) No 702/2014 shall continue to apply until 31 December 2025 to aid granted pursuant to Regulation (EU) No 1305/2013 of the European Parliament and of the Council <sup>(49)</sup>.

#### Article 63

##### **Transitional provisions**

1. This Regulation shall apply to individual aid granted before the date of entry into force of this Regulation, if that individual aid fulfils all the conditions laid down in this Regulation, with the exception of Article 9.

<sup>(49)</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).



2. Any aid not exempted from the notification requirement of Article 108(3) of the Treaty shall be assessed by the Commission in accordance with the 2023 Guidelines and any other relevant frameworks, guidelines, communications and notices.

3. Any individual aid granted before 1 January 2023 by virtue of any regulation adopted pursuant to Article 1 of Regulation (EU) 2015/1588 in force at the time the aid was granted shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty.

4. At the end of the period of validity of this Regulation, any aid schemes exempted under this Regulation shall remain exempted during an adjustment period of six months.

By way of derogation from the first subparagraph, at the end of the period of validity of this Regulation aid schemes falling within the scope of Regulation (EU) 2021/2115 and either co-financed by the EAFRD or by additional national financing for such co-financed measures shall remain exempted for the duration of the programming period in accordance with Regulation (EU) 2021/2115.

#### *Article 64*

This Regulation shall enter into force on 1 January 2023.

It shall apply from 1 January 2023 until 31 December 2029.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 December 2022.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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## ANNEX I

**SME definition***Article 1***Enterprise**

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

*Article 2***Staff headcount and financial thresholds determining enterprise categories**

1. The category of micro, small and medium-sized enterprises ('SMEs') is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

*Article 3***Types of enterprise taken into consideration in calculating staff numbers and financial amounts**

1. An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.
2. 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

- (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000;
  - (b) universities or non-profit research centres;
  - (c) institutional investors, including regional development funds;
  - (d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.
3. 'Linked enterprises' are enterprises which have any of the following relationships with each other:
    - (a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
    - (b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
    - (c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;

- (d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

4. Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

#### *Article 4*

##### **Data used for the staff headcount and the financial amounts and reference period**

1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.
3. In the case of newly established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

#### *Article 5*

##### **Staff headcount**

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- (c) owner-managers;

(d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

#### *Article 6*

#### **Establishing the data of an enterprise**

1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.

2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

3. For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.

4. Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

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ANNEX II

**Information regarding State aid exempt under the conditions of this Regulation to be provided through the established Commission IT application as laid down in Article 11**

PART I

Aid reference	<i>(to be completed by the Commission)</i>	
Member State		
Member State reference number		
Region	Name of the Region(s) (NUTS (1)) .....	Regional aid status (2) <input type="checkbox"/> Outermost regions <input type="checkbox"/> Smaller Aegean islands <input type="checkbox"/> Other
Granting authority	Name	
	Postal address	
	Web address	
Title of the aid measure	.....	
National legal basis (Reference to the relevant national official publication)	..... .....	
Web link to the full text of the aid measure	.....	
Type of measure	<input type="checkbox"/> Scheme	
	<input type="checkbox"/> <i>Ad hoc</i> aid	Name of the beneficiary and the group (3) it belongs to
Amendment of an existing aid scheme or <i>ad hoc</i> aid		Commission aid reference
	<input type="checkbox"/> Prolongation	
	<input type="checkbox"/> Modification	
Duration (4)	<input type="checkbox"/> Scheme	dd/mm/yyyy to dd/mm/yyyy

Date of granting	<input type="checkbox"/> <i>Ad hoc</i> aid	dd/mm/yyyy
Economic sector(s) concerned	<input type="checkbox"/> Please specify at NACE group level <sup>(5)</sup>	
Type of beneficiary	<input type="checkbox"/> SME	
	<input type="checkbox"/> Large undertakings	
Budget	<i>Scheme</i> : Overall amount <sup>(6)</sup> in national currency... (full amounts) .....	
	<i>Ad hoc aid</i> : Overall amount <sup>(7)</sup> in national currency... (full amounts) .....	
	<input type="checkbox"/> For guarantees <sup>(8)</sup>	National currency... (full amounts) .....
Aid instrument	<input type="checkbox"/> Grant/Interest rate subsidy	
	<input type="checkbox"/> Subsidised services	
	<input type="checkbox"/> Loan/Repayable advances	
	<input type="checkbox"/> Guarantee (where appropriate with a reference to the Commission decision <sup>(9)</sup> )	
	<input type="checkbox"/> Tax advantage or tax exemption	
	<input type="checkbox"/> Other (please specify) ..... Indicate to which broad category below it would fit best in terms of its effect/function: <input type="checkbox"/> Grant <input type="checkbox"/> Loan <input type="checkbox"/> Guarantee <input type="checkbox"/> Tax advantage	

<input type="checkbox"/> If co-financed by EU fund(s)	Name of EU fund(s): ..... .....	Amount of funding (as per EU fund) .....	National currency... (full amounts) .....
<p>(1) NUTS – Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.</p> <p>(2) Please indicate if the aid is granted in favour of an undertaking active in one of the pre-defined areas. Otherwise, please select the box 'other'.</p> <p>(3) An undertaking for the purposes of rules on competition laid down in the Treaty and for the purposes of this Regulation is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed. The Court of Justice has ruled that entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as one undertaking.</p> <p>(4) Period during which the granting authority can commit itself to grant the aid.</p> <p>(5) NACE Rev. 2 – Statistical classification of Economic Activities in the European Community. Typically, the sector shall be specified at group level.</p> <p>(6) In the case of an aid scheme: indicate the overall amount of the budget planned under the scheme or the estimated tax loss for its whole duration for all aid instruments contained in the scheme.</p> <p>(7) In case of an <i>ad hoc</i> aid award: Indicate the overall aid amount or tax loss.</p> <p>(8) For guarantees, indicate the (maximum) amount of loans guaranteed.</p> <p>(9) Where appropriate, reference to the Commission decision approving the methodology to calculate the gross grant equivalent, in accordance with Article 5(3)(c)(ii) of this Regulation.</p>			

PART II

**to be provided through the established Commission electronic notification system as laid down in Article 11**

Please indicate under which provision of the ABER the aid measure is implemented

Primary Objectives <i>(Multiple objectives are possible; in this case indicate all objectives)</i>	Maximum aid intensity in %	Maximum aid amount in national currency in full amounts
<input type="checkbox"/> Aid for investments in agricultural holding linked to primary agricultural production (Article 14)		
<input type="checkbox"/> Aid for agricultural land consolidation (Article 15)		
<input type="checkbox"/> Aid for investments concerning the relocation of farm buildings (Article 16)		
<input type="checkbox"/> Aid for investments in connection with the processing and the marketing of agricultural products (Article 17)		
<input type="checkbox"/> Start-up aid for young farmers and start up aid for agricultural activities (Article 18)		
<input type="checkbox"/> Start-up aid for producer groups and organisations in the agricultural sector (Article 19)		
<input type="checkbox"/> Aid for the participation of producers of agricultural products in quality schemes (Article 20)		
<input type="checkbox"/> Aid for knowledge exchange and information actions (Article 21)		

<input type="checkbox"/> Aid for advisory services (Article 22)		
<input type="checkbox"/> Aid for farm replacement services (Article 23)		
<input type="checkbox"/> Aid for promotion measures in favour of agricultural products (Article 24)		
<input type="checkbox"/> Aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster (Article 25)		
	Type of adverse climatic event which can be assimilated to a natural disaster:	<input type="checkbox"/> frost <input type="checkbox"/> storm <input type="checkbox"/> hail <input type="checkbox"/> ice <input type="checkbox"/> heavy or persistent rain <input type="checkbox"/> hurricane <input type="checkbox"/> severe drought <input type="checkbox"/> other Please specify:
	Date of occurrence of the event:	dd/mm/yyyy to dd/mm/yyyy
<input type="checkbox"/> Aid for the costs of the prevention, control and eradication of animal diseases and plant pests and aid to make good the damage caused by animal diseases or plant pests (Article 26)		
<input type="checkbox"/> Aid to the livestock sector and aid for fallen stock (Article 27)		
<input type="checkbox"/> Aid for the payment of insurance premiums and for financial contributions to mutual funds (Article 28)		
<input type="checkbox"/> Aid to make good the damage caused by protected animals (Article 29)		
<input type="checkbox"/> Aid for conservation of genetic resources in agriculture (Article 30)		
<input type="checkbox"/> Aid for animal welfare commitments (Article 31)		
<input type="checkbox"/> Aid for cooperation in the agricultural sector (Article 32)		
<input type="checkbox"/> Aid for disadvantages related to Natura 2000 (Article 33)		



<input type="checkbox"/> Aid for agri-environmental-climate commitments (Article 34)		
<input type="checkbox"/> Aid for organic farming (Article 35)		
<input type="checkbox"/> Aid for investments in favour of the conservation of cultural and natural heritage located on agricultural holdings or in forests (Article 36)		
<input type="checkbox"/> Aid to make good the damage caused by natural disasters in the agricultural sector (Article 37)	Type of natural disaster:	<input type="checkbox"/> earthquake <input type="checkbox"/> avalanche <input type="checkbox"/> landslide <input type="checkbox"/> flood <input type="checkbox"/> tornado <input type="checkbox"/> hurricane <input type="checkbox"/> volcanic eruption <input type="checkbox"/> wild fire <input type="checkbox"/> other Please specify:
	Date of occurrence of the natural disaster:	dd/mm/yyyy to dd/mm/yyyy
<input type="checkbox"/> Aid for research and development in the agricultural and forestry sectors (Article 38)		
<input type="checkbox"/> Aid for costs incurred by undertakings participating in EIP Operational Group projects (Article 39)		
<input type="checkbox"/> Limited amounts of aid to undertakings benefiting from EIP Operational Group projects (Article 40)		
<input type="checkbox"/> Aid for afforestation and the creation of woodland (Article 41)		
<input type="checkbox"/> Aid for agroforestry systems (Article 42)		
<input type="checkbox"/> Aid for the prevention and restoration of damage to forests (Article 43)		
<input type="checkbox"/> Aid for investments improving the resilience and environmental value of forest ecosystems (Article 44)		
<input type="checkbox"/> Aid for area-specific disadvantages resulting from certain mandatory requirements (Article 45)		

<input type="checkbox"/> Aid for forest-environmental and climate services and forest conservation (Article 46)		
<input type="checkbox"/> Aid for knowledge exchange and information actions in the forestry sector (Article 47)		
<input type="checkbox"/> Aid for advisory services in the forestry sector (Article 48)		
<input type="checkbox"/> Aid for investments in infrastructure related to the development, modernisation or adaptation of the forestry sector (Article 49)		
<input type="checkbox"/> Aid for investments in forestry technologies and in processing, in mobilising and in marketing of forestry products (Article 50)		
<input type="checkbox"/> Conservation of genetic resources in forestry (Article 51)		
<input type="checkbox"/> Start-up aid for producer groups and organisations in the forestry sector (Article 52)		
<input type="checkbox"/> Aid for forestry land consolidation (Article 53)		
<input type="checkbox"/> Aid for cooperation in the forestry sector (Article 54)		
<input type="checkbox"/> Aid for basic services and infrastructure in rural areas (Article 55)		
<input type="checkbox"/> Business start-up aid for non-agricultural activities in rural areas (Article 56)		
<input type="checkbox"/> Aid for new participation of farmers in quality schemes for cotton and foodstuffs (Article 57)		
<input type="checkbox"/> Aid for information and promotion activities concerning cotton and foodstuffs covered by a quality scheme (Article 58)		
<input type="checkbox"/> Aid for cooperation in rural areas (Article 59)		
<input type="checkbox"/> Aid for CLLD projects (Article 60)		
<input type="checkbox"/> Limited amounts of aid for CLLD projects (Article 61)		

## ANNEX III

**Provisions for the publication of information as laid down in Article 9(1)**

Member States shall organise their comprehensive State aid websites, on which the information referred to in Article 9(1) is to be published, in such a way as to allow easy access to that information. Information shall be published in a spreadsheet data format, which allows data to be searched, extracted and easily published on the internet, for instance in CSV or XML format. Access to the State aid website shall be allowed to any interested party without restrictions. No prior user registration shall be required to access the State aid website.

The following information on individual awards as laid down in Article 9, paragraph 1, point (c) shall be published:

- (a) Reference of the identification number of the aid <sup>(1)</sup>;
- (b) Beneficiary's identifier <sup>(2)</sup>;
- (c) Type of enterprise (SME/large) at the date of granting the aid;
- (d) Region in which the beneficiary is located, at NUTS level II <sup>(3)</sup> and, if applicable, Outermost regions or Smaller Aegean islands;
- (e) Sector of activity at NACE group level <sup>(4)</sup>;
- (f) Aid instrument, expressed as full amount in national currency <sup>(5)</sup>;
- (g) Aid instrument <sup>(6)</sup> (grant/interest rate subsidy, loan/repayable advances/reimbursable grant, guarantee, tax advantage or tax exemption, risk finance, other (please specify));
- (h) Date of granting the aid;
- (i) Objective of the aid <sup>(7)</sup>;
- (j) Granting authority.

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<sup>(1)</sup> As provided by the Commission under the procedure as referred to in Article 9, paragraph 1 of this Regulation

<sup>(2)</sup> Considering the legitimate interest in transparency to provide information to the public, in weighting up the needs of transparency with the rights under the data protection rules, the Commission concludes that the publication of the name of the aid beneficiary when the aid beneficiary is a natural person or a legal persons which have names of natural persons, is justified (see C-92/09, *Volker und Markus Schecke and Eifert*, paragraph 53), taking into account Article 49(1)(g) of Regulation (EU) 2016/679. Transparency rules aim to a better compliance, greater accountability, peer review and ultimately more effective public spending. This aim shall prevail over the data protection rights of natural persons receiving public support.

<sup>(3)</sup> NUTS – Nomenclature of Territorial Units for Statistics. Typically, the region shall be specified at level 2.

<sup>(4)</sup> Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE (OJ L 393, 30.12.2006, p. 1).

<sup>(5)</sup> Gross grant equivalent.

<sup>(6)</sup> If the aid is granted through multiple aid instruments, the aid amount shall be provided by an aid instrument.

<sup>(7)</sup> If the aid has multiple objectives, the aid amount shall be provided by an objective.

**COMMISSION REGULATION (EU) 2022/2473****of 14 December 2022****declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid <sup>(1)</sup> (Regulation (EU) 2015/1588), and in particular Article 1(1), points (a) (i),(ii), (vi), (vii) and (x) thereof,

Having published a draft of this Regulation <sup>(2)</sup>,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) State funding meeting the criteria laid down in Article 107(1) of the Treaty on the functioning of the European Union (‘TFEU’) constitutes State aid and requires notification to the Commission by virtue of Article 108(3) thereof. However, pursuant to Article 109 TFEU, the Council may determine categories of aid that are exempted from this notification requirement. In accordance with Article 108(4) TFEU, the Commission may adopt regulations relating to those categories of aid.
- (2) Regulation (EU) 2015/1588 empowers the Commission to declare, in accordance with Article 109 TFEU, that certain categories of aid may, under certain conditions, be exempted from the notification requirement. The Commission has applied Articles 107 and 108 TFEU to undertakings active in the production, processing and marketing of fishery and aquaculture products in numerous decisions. It has also stated its policy in guidelines specific to that sector. In the light of the Commission’s experience in applying those provisions, it is appropriate for the Commission to continue making use of the powers conferred by Regulation (EU) 2015/1588. Therefore, under certain conditions, aid to micro, small and medium-sized enterprises (‘SMEs’) active in the production, processing and marketing of fishery and aquaculture products, as well as aid granted to undertakings active in those fields independently of the size of the beneficiary undertaking to make good the damage caused by natural disasters, aid to make good the damage caused by adverse climatic event which can be assimilated to a natural disaster, aid for innovation and aid for conservation of marine and freshwater biological resources should be declared compatible with the internal market and not subject to the notification requirement of Article 108(3) TFEU. The exemption from the notification requirement should also apply to aid to make good the damage caused by behaviour of the protected animals independently of the size of the beneficiary of the aid as a conservation of marine and freshwater biological resources measure. Regulation (EU) 2015/1588 does not empower the Commission to declare, in accordance with Article 109 TFEU, that State aid to public law bodies, public authorities or public or semi-public organisations would be exempted from the notification requirement.
- (3) It is appropriate to continue making use of the powers conferred by Regulation (EU) 2015/1588 in order to exempt aid to make good the damage caused by natural disasters which is granted to undertakings independently of the size of the beneficiary.
- (4) Regulation (EU) 2015/1588 empowers the Commission to exempt aid to make good the damage caused by certain adverse weather conditions in fisheries from the notification requirement of Article 108(3) TFEU. Based on that empowerment, this Regulation sets clear compatibility conditions for this category of aid and defines its scope as to include aid which is granted to undertakings independently of the size of the beneficiary.

<sup>(1)</sup> OJ L 248, 24.9.2015, p. 1.

<sup>(2)</sup> OJ C 185, 6.5.2022, p. 1.

- (5) The compatibility of State aid in the fishery and aquaculture sector is assessed by the Commission on the basis of the objectives of the Common Fisheries Policy ('CFP'), as laid down by Regulation (EU) No 1380/2013 of the European Parliament and of the Council<sup>(3)</sup>. In the interest of coherence with Union-financed support measures, the maximum intensity of public aid allowed under this Regulation should be equal to that fixed for the same kind of aid in Article 41 of Regulation (EU) 2021/1139 of the European Parliament and of the Council<sup>(4)</sup>.
- (6) It is essential that no aid is granted in circumstances where Union law, and in particular rules of Regulation (EU) No 1380/2013, are not complied with. An aid may therefore only be granted by a Member State in the fishery and aquaculture sector, if the measures financed and their effects comply with Union law.
- (7) This Regulation should allow for better prioritisation of State aid enforcement activities and greater simplification and should enhance transparency, effective evaluation and the control of compliance with the State aid rules at national and Union levels, while preserving the institutional competences of the Commission and the Member States. In accordance with the principle of proportionality, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (8) The general conditions for the application of this Regulation should be defined on the basis of a set of common principles that ensure that the aid facilitates the development of an economic activity, has a clear incentive effect, is necessary, appropriate and proportionate, is granted in full transparency and subject to a control mechanism and regular evaluation and does not adversely affect trading conditions to an extent that is contrary to the common interest.
- (9) Aid that fulfils all the conditions laid down in this Regulation both general and specific to the relevant categories of aid should be considered compatible with the internal market and exempted from the notification requirement laid down in Article 108(3) TFEU.
- (10) State aid within the meaning of Article 107(1) TFEU not covered by this Regulation or by other Regulations adopted pursuant to Article 1 of Regulation (EU) 2015/1588 remains subject to the notification requirement of Article 108(3) TFEU. This Regulation should be without prejudice to the right of Member States to notify aid potentially covered by this Regulation. Such aid should be assessed in the light of the Guidelines for the examination of State aid in the fishery and aquaculture sector<sup>(5)</sup>.
- (11) This Regulation should not apply to aid contingent upon the use of domestic products over imported ones or aid to export-related activities. In particular, it should not apply to aid financing the establishment and operation of a distribution network in other Member States or third countries. 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 another Member State or third country should not normally constitute aid to export-related activities.
- (12) The Commission should ensure that authorised aid does not adversely affect trading conditions to an extent that is contrary to the common interest. Therefore, aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission Decision declaring aid illegal and incompatible with the internal market should be excluded from the scope of this Regulation, with the exception of aid schemes to make good damages caused by natural disasters or by adverse climatic events which can be assimilated to a natural disaster. Moreover, given that it would cause undue administrative burden to identify individual beneficiaries participating in community-led local development projects ('CLLD'), such exception should also apply to aid of a limited amount for SMEs participating in CLLD projects.
- (13) Aid granted to undertakings in difficulty should in principle be excluded from the scope of this Regulation, since such aid should be assessed under the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty<sup>(6)</sup>. However, it is necessary to establish where appropriate certain exceptions from this rule. By way of exception, such aid can be granted under this Regulation in order to compensate for the costs of prevention, control and eradication of animal diseases, make good the damage caused by natural disasters or by certain climatic events which can be assimilated to a natural disaster. In addition, this Regulation should apply to undertakings in difficulty in cases of aid to SMEs participating in or benefitting from CLLD projects, where it is difficult to identify individual beneficiary undertakings of such schemes. In order to provide legal certainty, it is appropriate to establish clear criteria to determine whether an undertaking is considered to be in difficulty for the purposes of this Regulation.

<sup>(3)</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

<sup>(4)</sup> Regulation (EU) 2021/1139 of the European Parliament and of the Council of 7 July 2021 establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004 (OJ L 247, 13.7.2021, p. 1).

<sup>(5)</sup> OJ C 217, 2.7.2015, p. 1.

<sup>(6)</sup> 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).

- (14) State aid enforcement is highly dependent on the cooperation of Member States. Therefore, Member States should take all necessary measures to ensure compliance with this Regulation, including compliance of individual aid granted under this Regulation.
- (15) In view of the need to strike the appropriate balance between minimising distortions of competition in the aided sector and the objectives of this Regulation, this Regulation should not exempt individual aid which exceeds a fixed maximum amount, whether or not made under an aid scheme exempted by this Regulation.
- (16) For the purpose of transparency, equal treatment and effective monitoring, this Regulation should apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent *ex ante* without the need to undertake a risk assessment ('transparent aid').
- (17) This Regulation should define the conditions under which certain specific aid instruments, such as loans, guarantees, tax measures, and, in particular, repayable advances may be considered transparent. Aid comprised in guarantees should be considered as transparent, if the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down for the respective type of undertaking. In the case of SMEs, the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees <sup>(7)</sup> indicates levels of annual premium above which a State guarantee would be deemed not to constitute aid. For the purposes of this Regulation, capital injections and risk capital measures should not be considered transparent aid.
- (18) In order to ensure that the aid is necessary and acts as an incentive to further develop activities or projects, this Regulation should not apply to aid for activities in which the beneficiary undertaking would in any case engage even in the absence of the aid. Aid should only be exempted from notification requirement of Article 108(3) TFEU in accordance with this Regulation, where the activity or the work on the aided project starts after the beneficiary undertaking has submitted a written application for the aid.
- (19) As regards any ad hoc aid covered by this Regulation granted to a beneficiary which is a large enterprise, the Member State should, in addition to the conditions on the incentive effect applicable to SMEs, also ensure that the beneficiary has analysed, in an internal document, the viability of the aided project or activity with aid and without aid. The Member State should verify that this internal document confirms a material increase in the scope of the project or activity, a material increase in the total amount spent by the beneficiary on the aided project or activity or a material increase in the speed of completion of the project or activity concerned. It should also be possible to establish the incentive effect on the basis of the fact that the investment project or the activity would not have been carried out as such in the rural area concerned in the absence of the aid.
- (20) Automatic aid schemes in the form of tax advantages should continue to be subject to a specific condition concerning the incentive effect, due to the fact that this kind of aid is granted under different procedures than other categories of aid. Such schemes should be adopted before work on the aided project or activity started. However, this condition should not apply in the case of fiscal successor schemes provided the activity was already covered by the previous fiscal schemes in the form of tax advantages. For the assessment of the incentive effect of such schemes, the crucial moment is the moment when the tax measure was set out for the first time in the original scheme, which is then replaced by the successor scheme.
- (21) For the calculation of aid intensity, only eligible costs should be included. This Regulation should not exempt aid which exceeds the relevant aid intensity as a result of including ineligible costs. The identification of eligible costs should be supported by clear, specific and up-to date documentary evidence. All figures used should be taken before any deduction of tax or other charges. Aid payable in several instalments should be discounted to its value on the date of granting the aid. The eligible costs should also be discounted to their value on the date of granting. The interest rate to be used for discounting purposes and for calculating the amount of aid in the case of aid which does not take the form of a grant should be respectively the discount rate and the reference rate applicable at the time of the grant, as laid down in the Commission Communication on the revision of the method for setting the reference and discount rates <sup>(8)</sup>. Where aid is granted by means of tax advantages, aid tranches should be discounted on the basis of the discount rates applicable on the various dates when the tax advantages become effective. The use of aid in the form of repayable advances should be promoted, since such risk-sharing instruments are conducive to strengthened incentive effect of aid. It is therefore appropriate to establish that where aid is granted in the form of repayable advances the applicable aid intensities referred to in this Regulation may be increased.

<sup>(7)</sup> OJ C 155, 20.6.2008, p. 10.

<sup>(8)</sup> OJ C 14, 19.1.2008, p. 6.

- (22) In the case of tax advantages on future taxes, the applicable discount rate and the exact amount of the aid tranches may not be known in advance. In such cases, Member States should set in advance a cap on the discounted value of the aid respecting the applicable aid intensity. Subsequently, when the amount of the aid tranche at a given date becomes known, discounting can take place on the basis of the discount rate applicable at that time. The discounted value of each aid tranche should be deducted from the overall amount of the capped amount.
- (23) To determine whether the notification thresholds and the maximum aid intensities referred to in this Regulation are respected, the total amount of State aid for the aided activity or project should be taken into account. Moreover, this Regulation should specify the circumstances under which different categories of aid may be cumulated. Aid exempted under this Regulation and any other compatible aid exempted under other regulations or approved by the Commission may be cumulated as long as those measures concern different identifiable eligible costs. Where different sources of aid are related to the same – partly or fully overlapping – identifiable eligible costs, cumulation should be allowed up to the highest aid intensity or aid amount applicable to that aid under this Regulation. This Regulation should also set out special rules for cumulation of aid measures with *de minimis* aid. *De minimis* aid is often not granted for or attributable to specific identifiable eligible costs. In such a case, it should be possible to freely cumulate *de minimis* aid with State aid exempted under this Regulation. Where, however, *de minimis* aid is granted for the same identifiable eligible costs as State aid exempted under this Regulation, cumulation should only be allowed up to the maximum aid intensity as referred to in Chapter III of this Regulation.
- (24) Given that State aid within the meaning of Article 107(1) TFEU is, in principle, prohibited, it is important to be able to check whether aid is granted in compliance with the applicable rules. Transparency of State aid is, therefore, essential for the correct application of the provisions of the TFEU and leads to better compliance, greater accountability, peer review and ultimately more effective public spending. To ensure transparency, Member States should be required to establish comprehensive State aid websites, at regional or national level, setting out summary information about each aid measure exempted under this Regulation. That obligation should be a condition for the compatibility of the individual aid with the internal market. Following the standard practice regarding publication of information in Directive (EU) 2019/1024 of the European Parliament and the Council <sup>(9)</sup>, a standard format should be used which allows the information to be searched, downloaded and easily published on the Internet. The links to the State aid websites of all the Member States should be published on the Commission's website. In accordance with Article 3 of Regulation (EU) 2015/1588, summary information on each measure exempted under this Regulation should be published on the website of the Commission.
- (25) To ensure effective monitoring of aid measures in accordance with Regulation (EU) 2015/1588, it is appropriate to establish requirements regarding the reporting by the Member States of aid measures which have been exempted pursuant to this Regulation. Moreover, it is appropriate to establish rules concerning the records that Member States should keep regarding the aid exempted by this Regulation, in light of the limitation period established in Article 17 of Council Regulation (EU) 2015/1589 <sup>(10)</sup>. Finally, each individual aid should contain an express reference to this Regulation.
- (26) To enforce the effectiveness of compatibility conditions set out in this Regulation, it should be possible for the Commission to withdraw the benefit of the block exemption for future aid measures in the event of failure to comply with these requirements. The Commission should be able to restrict the withdrawal of the benefit of the block exemption to certain types of aid, certain beneficiary undertakings or aid measures adopted by certain authorities, where non-compliance with this Regulation affects only a limited group of measures or certain authorities. Such a targeted withdrawal should provide a proportionate remedy directly linked to the identified non-compliance with this Regulation.
- (27) To eliminate differences that might give rise to distortions of competition and to facilitate coordination between different Union and national initiatives concerning SMEs, as well as for reasons of administrative and legal certainty, the definition of SMEs used for the purpose of this Regulation should be based on the definition in Commission Recommendation 2003/361/EC <sup>(11)</sup>.

<sup>(9)</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

<sup>(10)</sup> 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).

<sup>(11)</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (28) This Regulation should cover types of aid granted in the fishery and aquaculture sector which have been systematically approved by the Commission in the past. This aid should not require a case-by-case assessment of its compatibility with the internal market from the Commission, provided that it complies with the conditions laid down in Regulations (EU) No 1380/2013 and (EU) 2021/1139 where applicable.
- (29) In accordance with Article 107(2), point (b), TFEU, aid to make good the damage caused by natural disasters or exceptional occurrences is compatible with the internal market. In order to provide legal certainty, it is necessary to define the type of the events that may constitute a natural disaster exempted by this Regulation.
- (30) Fishery and aquaculture are sectors, which are specifically exposed to adverse climatic events which can be assimilated to a natural disaster and to animal diseases. Experience shows that these sectors are hit extraordinarily by such events and that fishers suffer considerable damage from them. Measures to adequately insure and compensate such damage are considered to be a suitable tool to help undertakings recover from such damage and, thus, to remain in business and in that way to ensure the development of economic activities in those sectors.
- (31) Damage caused by adverse climatic events which can be assimilated to a natural disaster, such as storms, frost, hail, ice, rainfall or severe droughts, which occur on a more regular basis, should not be considered a natural disaster within the meaning of Article 107(2), point (b), TFEU. Nevertheless, to the extent that their impact on the economic activity is such that they can be assimilated to a natural disaster, aid to make good damage caused by adverse climatic events should be considered as compatible with the internal market pursuant to Article 107(3), point (c), TFEU.
- (32) In order to ensure that the exemption covers aid granted to make good the damage caused by natural disasters and adverse climatic events that can be assimilated to a natural disaster, this Regulation should lay down, following established practice, the conditions under which such aid may benefit from that block exemption. Those conditions should relate, in particular, to the formal recognition by the competent Member States' authorities of the character of the event as a natural disaster or adverse climatic event that can be assimilated to a natural disaster and to a direct causal link between the natural disaster or adverse climatic event and the damages suffered by the beneficiary undertaking, which may include undertakings in difficulty, and should ensure that overcompensation is avoided. The compensation should not exceed what is necessary to enable the beneficiary undertaking to return to the situation prevailing before the event occurred.
- (33) Fishery and aquaculture are sectors where there is insufficient incentive for individual action to occur, despite the fact that the result of individual action combined would correspond to the common good of all users. For this reason aid to protect and restore marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities, including waste collection from the sea, should be considered as compatible with the internal market pursuant to Article 107(3), point (c), TFEU.
- (34) This Regulation takes into account the specific situation of the Union outermost regions as recognised in Article 349 TFEU, which provides for specific measures.
- (35) Aid granted to SME's participating in CLLD projects, has little impact on competition, in particular, in view of the positive role the aid plays for sharing knowledge, especially for local communities, as well as the often collective nature of the aid, and its relatively small scale. The nature of those projects is integrated, multi-actor and multi-sector, which can lead to certain difficulties for their classification under State aid rules. Municipalities, by their very nature, fall outside the scope of the SME definition<sup>(12)</sup>. They, however, often play a vital role in the organisation and realisation of CLLD projects. Where a CLLD project is carried out in favour of one of the objectives foreseen in Article 1 of Council Regulation (EU) 2015/1588, it should therefore be possible to block-exempt also aid to municipalities in the context of such project. Given the local nature of CLLD projects, selected on the basis of a multi-annual local development strategy determined and implemented by public-private partnership and their orientation to community, social, environmental and climate interest, this Regulation should address certain difficulties faced by CLLD projects in order to facilitate their compliance with State aid rules. This should also apply to municipalities benefiting directly or indirectly from CLLD projects, which pursue one of the objectives foreseen in Article 1 of Regulation (EU) 2015/1588.

<sup>(12)</sup> According to the SME definition, reproduced in Annex I of this Regulation, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies (cf. Article 3(4) of that Annex).



- (36) Pursuant to Article 15(1)(f) and Article 15(3) of Council Directive 2003/96/EC <sup>(13)</sup>, Member States may introduce tax exemptions or reductions applicable to inland fishing and piscicultural works. It is therefore appropriate to continue exempting those measures from the notification requirement of Article 108(3) of the Treaty where the conditions provided under that Directive are fulfilled. Tax exemptions applicable to fishing within EU waters which Member States are to introduce pursuant to Article 14(1)(c) of that Directive are not imputable to the State and therefore should not constitute State aid.
- (37) In the light of the Commission's experience in this area, State aid rules should periodically be revised. The period of application of this Regulation should therefore be limited and transitional provisions should be laid down. Having regard to the fact that the conditions for granting aid under this Regulation are closely linked with the conditions established for the application of Regulation (EU) 2021/1139 which establishes the European Maritime, Fisheries and Aquaculture Fund (EMFAF) for the period between 1 January 2021 and 31 December 2027, it is appropriate to align the period of application of this Regulation with that of the EMFAF. To ensure continuity and legal certainty during a transitional phase, it is appropriate that this Regulation applies until 31 December 2029.
- (38) Should this Regulation expire without being extended, aid schemes already exempted under this Regulation should continue to be exempted for six months in order to ensure continuity and legal certainty,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### **Common provisions**

##### *Article 1*

##### **Scope**

1. This Regulation shall apply to aid granted to
  - (a) micro, small and medium-sized enterprises (SMEs) active in the production, processing or marketing of fishery and aquaculture products;
  - (b) municipalities under Article 54 and 55; and
  - (c) fishing ports, landing sites, auction halls and shelters under Article 29
2. This Regulation shall also apply to aid granted to any undertaking active in the production, processing or marketing of fishery and aquaculture products for any of the following purposes and independently of the size of the undertaking benefitting from the aid:
  - (a) to make good the damage caused by natural disasters;
  - (b) to make good the damage caused by adverse climatic event which can be assimilated to a natural disaster;
  - (c) to make good the damage caused by protected animals; and
  - (d) for innovation in fisheries and aquaculture.
3. This Regulation shall not apply to:
  - (a) aid the amount of which is fixed on the basis of price or quantity of products put on the market;

<sup>(13)</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

- (b) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;
  - (c) aid contingent upon the use of domestic over imported goods;
  - (d) ad hoc aid in favour of an undertaking as referred to in paragraph 5 of this Article;
  - (e) aid granted to operations or expenditure:
    - (i) that increase the fishing capacity of a fishing vessel;
    - (ii) for the acquisition of equipment that increases the ability of a fishing vessel to find fish;
    - (iii) for the construction, acquisition or importation of fishing vessels, unless otherwise provided for in Article 20;
    - (iv) for the transfer or reflagging of fishing vessels to third countries, including through the creation of joint ventures with partners of third countries;
    - (v) for the temporary or permanent cessation of fishing activities;
    - (vi) for exploratory fishing;
    - (vii) the transfer of ownership of a business unless otherwise provided for in Article 20;
    - (viii) for the direct restocking, except if experimental;
    - (ix) for the construction of new ports or new auction halls;
    - (x) for market intervention mechanisms aiming to temporarily or permanently withdraw fishery or aquaculture products from the market with a view to reducing supply in order to prevent price decline or to drive prices up;
    - (xi) for investments on board fishing vessels necessary to comply with the requirements under Union law in force at the time of submission of the application for aid, including requirements under the Union's obligations in the context of regional fisheries management organisations (RFMOs);
    - (xii) for investments on board fishing vessels that have carried out fishing activities for less than 60 days in the two calendar years preceding the year of submission of the application for aid;
    - (xiii) for the replacement or modernisation of a main or ancillary engine of a fishing vessel;
  - (f) aid granted to an undertaking that
    - (i) has committed a serious infringement under Article 42 of Council Regulation (EC) No 1005/2008<sup>(14)</sup> or Article 90 of Regulation (EC) No 1224/2009<sup>(15)</sup>;
    - (ii) has been involved in the operation, management or ownership of a fishing vessel included in the Union Illegal, unreported and unregulated fishing vessel list as set out in Article 40, point (3), of Regulation (EC) No 1005/2008, or of a vessel flying the flag of countries identified as non-cooperating third countries as set out in Article 33 of that Regulation; or
    - (iii) has committed any of the environmental offences set out in Articles 3 and 4 of Directive 2008/99/EC of the European Parliament and of the Council<sup>(16)</sup>, where the application for support is submitted under Article 32 to 39 of this Regulation.
4. This Regulation shall not apply to aid to undertakings in difficulty, with the exception of aid granted:
- (a) to undertakings participating in or benefitting from CLLD projects;
  - (b) to compensate for the costs of prevention, control and eradication of animal diseases;

<sup>(14)</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999. (OJ L 286, 29.10.2008, p. 1).

<sup>(15)</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006. (OJ L 343, 22.12.2009, p. 1).

<sup>(16)</sup> Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).

- (c) to aid schemes to make good the damage caused by natural disasters; or
- (d) in the following cases, provided that the undertaking became an undertaking in difficulty due to losses or damages caused by the event in question:
  - (i) to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster; or
  - (ii) to make good the damage caused by protected animals.

5. This Regulation shall not apply to aid schemes which do not explicitly exclude the payment of individual aid in favour of 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, with the exception of one of the following:

- (a) aid schemes to make good the damage caused by natural disasters or by adverse climatic events which can be assimilated to a natural disaster; or
- (b) aid schemes for costs incurred by SMEs participating in CLLD projects and aid to undertakings participating in, or benefitting from, CLLD in accordance with Articles 54 and 55.

6. This Regulation shall not apply to State aid measures, which entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law, in particular:

- (a) aid where the grant of aid is subject to the obligation for the beneficiary undertaking to have its headquarters in the relevant Member State or to be predominantly established in that Member State. However, the requirement to have an establishment or branch in the aid granting Member State at the moment of payment of the aid is allowed;
- (b) aid where the grant of aid is subject to the obligation for the beneficiary undertaking to use nationally produced goods or national services; or
- (c) aid restricting the possibility for the beneficiary undertaking to exploit the research, development and innovation results in other Member States;
- (d) the Habitats Directive, Birds Directive, Ship Source Pollution Directive and provisions concerning waste management.

7. This Regulation shall not apply to:

- (a) aid provided for in State aid schemes under Articles 20, 21, 24, 26 to 30, 33, 43, 46, 48, 50 and 52, if it fulfils the conditions of Article 12, from 1 July 2023;
- (b) any alterations of schemes referred to in point (a) other than modifications which cannot affect the compatibility of the aid scheme under this Regulation or cannot significantly affect the content of the approved evaluation plan.

The Commission may decide that this Regulation shall continue to apply for a longer period to any of the aid types referred to in point (a) of this paragraph after having assessed the relevant evaluation plan notified by the Member State to the Commission.

## Article 2

### Definitions

1. For the purpose of this Regulation the following definitions shall apply:
  - (1) 'ad hoc aid' means aid not granted on the basis of an aid scheme;

- (2) ‘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 rainfall or severe droughts, which reduce by more than 30 % the average of the production calculated on the basis of one of the following methods:
- (a) the preceding three-year period;
  - (b) a three year average based on the preceding five-year period, excluding the highest and the lowest entry;
- (3) ‘aid’ means any measure fulfilling all the criteria laid down in Article 107(1) TFEU;
- (4) ‘aid intensity’ means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;
- (5) ‘aid scheme’ means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount;
- (6) ‘biosecurity’ 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;
- (7) ‘control and eradication measures’ means measures regarding animal diseases for which a competent authority has formally recognised an outbreak, or regarding plant pests or invasive alien species for which a competent authority has formally acknowledged their presence;
- (8) ‘date of granting the aid’ means the date when the legal right to receive the aid is conferred on the beneficiary undertaking under the applicable national legal regime;
- (9) ‘depredation’ means preying on fish caught in nets or kept in ponds by protected animals such as seals, sea otters and sea birds;
- (10) ‘evaluation plan’ means a document covering one or more aid schemes and containing at least the following minimum 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;
- (11) ‘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;
- (12) ‘fisher’ means any natural person engaging in commercial fishing activities, as recognised by the Member State concerned;
- (13) ‘fishery and aquaculture products’ means the products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council <sup>(17)</sup>;
- (14) ‘fishery and aquaculture sector’ means the sector of the economy which comprises all activities of production, processing, and marketing of fishery or aquaculture products;
- (15) ‘fishing capacity’ means a vessel’s tonnage in GT (Gross Tonnage) and its power in kW (Kilowatt) as defined in Articles 4 and 5 of Regulation (EU) 2017/1130 of the European Parliament and of the Council <sup>(18)</sup>;

<sup>(17)</sup> 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).

<sup>(18)</sup> Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining characteristics for fishing vessels. (OJ L 169, 30.6.2017, p. 1).

- (16) 'fishing port' means a maritime or inland area of land and water which is officially recognised by a Member State and made up of such infrastructure and equipment so as to permit, mainly, the reception of fishing vessels, loading and unloading their catches, the storage, receipt and delivery of those catches and the embarkation and disembarkation of fishers;
- (17) 'gross grant equivalent' means the amount of the aid if it had been provided in the form of a grant to the beneficiary undertaking, before any deduction of tax or other charges;
- (18) 'individual aid' means ad hoc aid and awards of aid to individual beneficiaries on the basis of an aid scheme;
- (19) 'inland fishing' means fishing activities carried out for commercial purposes in inland waters by vessels or other devices, including those used for ice fishing;
- (20) 'invasive alien species' means invasive alien species of Union concern and invasive alien species of Member State concern as defined in Article 3(3) and 3(4) of Regulation (EU) No 1143/2014 <sup>(19)</sup> of the European Parliament and of the Council ('Regulation (EU) No 1143/2014');
- (21) 'natural disasters' means earthquakes, avalanches, landslides, floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin;
- (22) 'outermost regions' means the regions referred to in Article 349 TFEU;
- (23) 'protected animal' means any animal other than fish protected either by Union or by national legislation;
- (24) '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;
- (25) 'SME' or 'micro, small and medium-sized enterprises' means undertakings fulfilling the criteria laid down in Annex I;
- (26) 'small-scale coastal fishing' means fishing activities carried out by: (a) marine and inland fishing vessels of an overall length of less than 12 metres and not using towed gear as defined in point (1) of Article 2 of Council Regulation (EC) No 1967/2006 <sup>(20)</sup>; or (b) fishers on foot, including shellfish gatherers;
- (27) 'start of works' means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs, 'start of works' means the moment of acquiring assets directly linked to the acquired establishment;
- (28) 'subsidised services' means a form of aid, where the aid is granted to the final beneficiary undertaking indirectly, in kind, and is paid to the provider of the service or activity in question;
- (29) 'undertaking in difficulty' means an undertaking fulfilling the criteria laid down in Article 2, point (18), of Commission Regulation (EU) No 651/2014 <sup>(21)</sup>.

2. In addition to the definitions listed in paragraph 1, the definitions provided for in Article 4 of Regulation (EU) No 1380/2013, Article 2 of Regulation (EU) 2021/1139 and Article 5 of Regulation (EU) No 1379/2013 shall apply.

### Article 3

#### Notification threshold

1. This Regulation shall not apply to individual aid for any project with eligible costs in excess of EUR 2,5 million, or where the gross grant equivalent of the aid exceeds EUR 1,25 million per undertaking per year.
2. The thresholds set out in paragraph 1 shall not be circumvented by artificially splitting up the aid schemes or aid projects.

<sup>(19)</sup> 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).

<sup>(20)</sup> Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11).

<sup>(21)</sup> 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).

*Article 4***Conditions for exemption**

1. Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be compatible with the internal market within the meaning of Article 107(2) or (3) TFEU and shall be exempted from the notification requirement of Article 108(3) TFEU provided that such aids fulfil the conditions laid down in Chapter I of this Regulation, as well as the specific conditions for the relevant category of aid laid down in Chapter III of this Regulation.
2. Aid measures shall only be exempted under this Regulation as far as they explicitly provide that, during the grant period, the beneficiaries of the aid shall comply with the rules of the Common Fisheries Policy and that, if during that period it is found that the beneficiary does not comply with rules of the Common Fisheries Policy, the aid shall be reimbursed in proportion to the gravity of the infringement.

*Article 5***Transparency of aid**

1. This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without any need to undertake a risk assessment ('transparent aid').
2. The following categories of aid shall be considered to be transparent:
  - (a) aid comprised in grants, interest rate subsidies and subsidised services;
  - (b) aid comprised in loans where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant;
  - (c) aid comprised in guarantees:
    - (i) where the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice; or
    - (ii) where before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, or any successor notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation;
  - (d) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;
  - (e) aid in the form of repayable advances, if the total nominal amount of the repayable advance does not exceed the thresholds applicable under this Regulation or if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission.
3. For the purposes of this Regulation, the following categories of aid shall not be considered to be transparent aid:
  - (a) aid comprised in capital injections;
  - (b) aid comprised in risk finance measures.

*Article 6***Incentive effect**

1. This Regulation shall apply only to aid which has an incentive effect.
2. Aid shall be considered to have an incentive effect, if the beneficiary undertaking has submitted a written application for the aid to the Member State concerned before work on the project or activity starts. The application for the aid shall contain at least the following information:
  - (a) undertaking's name and size;
  - (b) description of the project or activity, including its start and end dates;

- (c) location of the project or activity;
- (d) list of eligible costs; and
- (e) type of aid (grant, loan, guarantee, repayable advance or other) and amount of public funding needed for the project or activity.

3. Ad hoc aid granted to large enterprises shall be considered to have an incentive effect if, in addition to ensuring that the condition laid down in paragraph 2 is fulfilled, the Member State has verified, before granting the ad hoc aid concerned, that documentation prepared by the beneficiary undertaking establishes that the aid will result in one or more of the following:

- (a) a material increase in the scope of the project or activity due to the aid;
- (b) a material increase in the total amount spent by the beneficiary undertaking on the project or activity due to the aid;
- (c) a material increase in the speed of completion of the project or activity concerned;
- (d) in the case of investment ad hoc aid, that the project or activity would not have been carried out as such in the area concerned or would not have been sufficiently profitable for the beneficiary undertaking in the area concerned in the absence of the aid.

4. Measures in the form of tax advantages shall be deemed to have an incentive effect, if the following conditions are fulfilled:

- (a) the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and
- (b) the measure has been adopted and is in force before work on the aided project or activity has started. This requirement shall 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.

5. By way of derogation from paragraphs 1 and 2 of this Article, the following categories of aid are not required to have or shall be deemed to have an incentive effect

- (a) aid to compensate for the costs of the prevention, control and eradication of animal diseases, if the conditions laid down in Articles 42, 49, 51 and 53 are fulfilled;
- (b) aid to make good the damage caused by natural disasters, if the conditions laid down in Articles 42, 49, 51 and 53 are fulfilled;
- (c) aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster;
- (d) aid to make good the damage caused by protected animals, if the conditions laid down in Articles 42, 49, 51 and 53 are fulfilled;
- (e) aid in the form of tax exemptions or reductions adopted by the Member States pursuant to Article 15(1) point (f), and Article 15(3) of Directive 2003/96/EC, if the conditions laid down in Article 56 of this Regulation are fulfilled;
- (f) aid for SMEs participating in or benefitting from CLLD projects, if the relevant conditions in Articles 54 and 55 are fulfilled;
- (g) aid for marketing measures referred to in Article 45(1)(b)(vii) if the relevant conditions in Articles 45 are fulfilled;
- (h) aid for partnership between scientists and fishers if the relevant conditions in Articles 17 are fulfilled;
- (i) aid to promote human capital, job creation and social dialogue if the relevant conditions in Articles 18 are fulfilled.

*Article 7***Aid intensity and eligible costs**

1. For the purpose of calculating aid intensity and eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary. Value added tax (VAT) shall not be eligible for aid, except where it is non-recoverable under national legislation.
2. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.
3. Aid payable in several instalments shall be discounted to its value on the date of granting the aid. The eligible costs shall be discounted to their value on the date of granting the aid. The interest rate to be used for discounting purposes shall be the discount rate applicable on the date of granting the aid.
4. Where aid is granted by means of tax advantages discounting of aid tranches shall take place on the basis of the discount rates applicable on the various dates when the tax advantage takes effect.
5. Where aid is granted to make good the damage or income foregone it shall be reduced by any costs not directly incurred due to the event.
6. Where aid is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable on the date of granting the aid, the maximum aid intensities laid down in Chapter III may be increased by 10 percentage points without exceeding a maximum aid intensity rate of 100 % of the eligible costs.
7. The eligible costs shall comply with the requirements of Articles 53 to 57 of Regulation (EU) 2021/1060 of the European Parliament and of the Council <sup>(22)</sup>.

*Article 8***Cumulation**

1. In determining whether the notification thresholds laid down in Article 3 and the maximum aid intensities laid down in Chapter III are respected, the total amount of aid for the activity or project or undertaking shall be taken into account, regardless of whether that aid is financed from local, regional, national or Union sources.
2. Aid exempted by this Regulation may be cumulated with one of the following:
  - (a) any other aid, as long as those measures concern different identifiable eligible costs;
  - (b) any other 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 aid under this Regulation.
3. Aid exempted under this Regulation shall not be cumulated with any *de minimis* aid in respect of the same eligible costs, if such cumulation would result in an aid intensity exceeding those referred to in Chapter III.

*Article 9***Publication and information**

1. The Member State concerned shall ensure the publication on the Commission's transparency award module or a comprehensive State aid website, at national or regional level of:
  - (a) the summary information referred to in Article 11 in the standardised format laid down in Annex II or a link providing access to it;
  - (b) the full text of each aid measure as referred to in Article 11 or a link providing access to the full text;

<sup>(22)</sup> 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).



(c) the information on each individual aid award exceeding EUR 10 000.

The information referred to in points (a), (b) and (c) shall be published in accordance with Annex III.

2. For schemes in the form of tax advantages, the conditions set out in paragraph 1, point (c), shall be considered fulfilled, if Member States publish the required information on individual aid amounts in the following ranges (in EUR million):

(a) 0,01–0,2;

(b) 0,2–0,4;

(c) 0,4–0,6;

(d) 0,6–0,8;

(e) 0,8–1.

3. The information referred to in paragraph 1, point (c), shall be organised and accessible in a standardised manner, as set out in Annex III, and shall allow for effective search and download functions. The information referred to in paragraph 1 shall be published within six months from the date the aid was granted, or for aid in the form of tax advantage, within one year from the date the tax declaration is due, and shall be available for at least 10 years from the date on which the aid was granted.

4. Each aid scheme and individual aid shall contain an explicit reference to this Regulation, by citing its title and publication reference in the *Official Journal of the European Union*, and to the specific provisions of Chapter III relating to that aid, or where applicable, to the national law which ensures that the relevant provisions of this Regulation are complied with. It shall be accompanied by its implementing provisions and its amendments.

5. The publication obligations laid down in paragraph 1 of this Article shall not apply to aid granted to CLLD projects under Articles 54 and 55.

6. The Commission shall publish on its website:

(a) the links to the State aid websites, referred to in paragraph 1 of this Article;

(b) the summary information referred to in Article 11(2).

## CHAPTER II

### **Procedural requirements**

#### *Article 10*

#### **Withdrawal of the benefit of the block exemption**

Where a Member State grants aid allegedly exempted from the notification requirement under this Regulation without fulfilling the conditions set out in Chapters I, II and III thereof, the Commission may, after having provided the Member State concerned with the possibility to make its views known, adopt a decision stating that all or some of the future aid measures adopted by the Member State concerned which would otherwise fulfil the requirements of this Regulation, are to be notified to the Commission in accordance with Article 108(3) TFEU. The measures to be notified may be limited to measures granting certain types of aid, in favour of certain beneficiaries or adopted by certain authorities of the Member State concerned.

#### *Article 11*

#### **Reporting**

1. Member States shall transmit to the Commission in electronic form an annual report, referred to in Chapter III of Commission Regulation (EC) No 794/2004<sup>(23)</sup>, on the application of this Regulation in respect of each whole year or each part of the year during which this Regulation applies.

<sup>(23)</sup> 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).

2. Member States shall also transmit to the Commission, via the Commission's electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format laid down in Annex II, together with a link providing access to the full text of the aid measure, including its amendments, within 20 working days following its entry into force.
3. Paragraph 1 of this Article shall not apply to aid granted to CLLD projects as referred to in Articles 54 and 55.

#### Article 12

##### Evaluation

1. Aid schemes are subject to an *ex post* evaluation if they have a State aid budget or accounted expenditures over EUR 150 million in any given year or EUR 750 million over their total duration, i.e. the combined duration of the aid scheme and any predecessor aid scheme covering a similar objective and geographical area, starting from 1 January 2023. *Ex post* evaluations are only required for aid schemes the total duration of which exceeds three years, starting from 1 January 2023.
2. 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 an aid scheme is not in compliance with the approved evaluation plan, that scheme shall be suspended with immediate effect. Any successor of such suspended aid scheme shall not be block exempted.
3. The aim of the evaluation shall be to verify whether the assumptions and conditions underlying the compatibility of the aid 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 shall also assess the impact of the scheme on competition and trade.
4. For aid schemes subject to the evaluation requirement pursuant to paragraph 1, Member States shall notify to the Commission a draft evaluation plan as follows:
  - (a) within 20 working days from the aid scheme's entry into force, if the budget of the aid 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 aid scheme to over EUR 150 million in any given year or EUR 750 million over the total duration of the aid scheme;
  - (c) within 30 working days following the recording in official accounts of expenditure under the aid scheme in excess of EUR 150 million in any year.
5. The draft evaluation plan shall be in line with the common methodological principles provided by the Commission <sup>(24)</sup>. Member States shall publish the evaluation plan approved by the Commission.
6. The *ex post* evaluation shall be carried out by an expert independent from the aid granting authority on the basis of the evaluation plan. Each evaluation shall include at least one interim and one final evaluation report. Member States shall publish both reports.
7. The final evaluation report shall be submitted to the Commission at the latest nine months before the expiry of the exempted aid scheme. That period may be reduced for aid schemes triggering the evaluation requirement in the last two years of implementation of the aid scheme. The precise scope and arrangements for each evaluation shall be set out in the Commission Decision approving the evaluation plan. The notification of any subsequent aid measure with a similar objective shall indicate how the results of the evaluation have been taken into account.

<sup>(24)</sup> Commission staff working document, Common methodology for State aid evaluation (28.5.2014, SWD(2014) 179 final).

*Article 13***Monitoring**

Member States shall maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in this Regulation are fulfilled. Such records shall be kept for 10 years from the date on which the ad hoc aid was granted or the last aid was granted under the scheme. The Member State concerned shall provide the Commission within a period of 20 working days or such longer period as may be fixed in the request, with all the information and supporting documentation which the Commission considers necessary to monitor the application of this Regulation.

*CHAPTER III****Specific provisions for different categories of aid****Section 1***Fostering sustainable fisheries and the restoration and conservation of aquatic biological resources***Article 14***General conditions**

The aid under this Section shall fulfil all the following general conditions:

- (a) where aid is granted in respect of a Union fishing vessel, that vessel shall not be transferred or reflagged outside the Union during at least the five years from the final payment for the supported operation. If a vessel is transferred or reflagged within that time-frame, sums unduly paid in respect of the operation shall be recovered by the Member State, in an amount proportionate to the period during which the condition set out in the first sentence of this point has not been fulfilled;
- (b) operating costs shall not be eligible unless expressly otherwise provided for in this Section.

*Article 15***Aid for innovation in fisheries**

1. Aid for innovation in fisheries fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid aims to develop or introduce new or substantially improved products and equipment, new or improved processes and techniques, and new or improved management and organisation systems, including at the level of processing and marketing.
2. Subsidised services financed by the aid shall be carried out by, or in collaboration with, a scientific or technical body, recognised by the Member State or the Union. That scientific or technical body shall validate the results of such operations. The aid shall be paid directly to the research and/or knowledge-dissemination organisation.
3. The results of operations receiving support shall be adequately publicised by the Member State.
4. The eligible costs may be the following:
  - (a) direct personnel costs related to researchers, technicians and other supporting staff to the extent employed on the project;
  - (b) costs of instruments and equipment to the extent and for the period used for the operations; where such instruments and equipment are not used for their full life for the operations, only the depreciation costs corresponding to the life of the operations, as calculated on the basis of generally accepted accounting principles are considered as eligible;
  - (c) costs of buildings and land, to the extent and for the duration period used for the operations and under the following conditions:
    - (i) with regard to buildings, only the depreciation costs corresponding to the life of the operation, as calculated on the basis of generally accepted accounting principles, are considered as eligible;

- (ii) 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, as well as costs of consultancy and equivalent services used exclusively for the operations; or
- (e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the operations.

5. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 16

##### **Aid for advisory services**

1. Aid for advisory services fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid improves the overall performance and competitiveness of undertakings and promotes sustainable fisheries;
- (b) the aid shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions; and
- (c) the advisory service takes on one of the following forms:
  - (i) feasibility studies and advisory services that assess the viability of measures potentially eligible for support under of Title II, Chapter II of Regulation (EU) 2021/1139;
  - (ii) the provision of professional advice on environmental sustainability, with a focus on limiting and, where possible, eliminating the negative impact of fishing activities on marine, coastal, terrestrial and freshwater ecosystems;
  - (iii) the provision of professional advice on business and marketing strategies.

2. The feasibility studies, advisory services and advice referred to in paragraph 1, point (b), shall be provided by scientific, academic, professional or technical bodies, or entities providing economic advice that have the competence required under national law.

3. The aid shall take the form of a subsidised service or direct grant.

4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 17

##### **Aid for partnership between scientists and fishers**

1. Aid for partnership between scientists and fishers fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims to foster the transfer of knowledge between scientists and fishers;
- (b) the aid supports the following:
  - (i) the creation of networks, partnership agreements or associations between one or more independent scientific bodies and fishers, or one or more organisations of fishers, in which technical bodies may participate;
  - (ii) the activities carried out in the framework of the networks, partnership agreements, or associations referred to in point (i). These activities may cover data collection and management activities, studies, pilot projects, dissemination of knowledge and research results, seminars and best practices.

2. The aid shall take the form of a subsidised service or direct grant.

3. The aid may only cover the following eligible costs incurred directly as a result of the supported project:

- (a) direct salary costs
- (b) participation fees;
- (c) travel costs;
- (d) costs of publications;
- (e) purchased data collection services, studies, pilot projects;
- (f) the rent of exhibition premises and stands and the costs of their installation and dismantling;
- (g) costs for the dissemination of scientific knowledge and factual information.

4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 18

##### **Aid to promote human capital and social dialogue**

1. Aid to promote human capital and social dialogue fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid concerned supports the following:

- (a) professional training, lifelong learning, joint projects, the dissemination of knowledge of an economic, technical, regulatory or scientific nature and of innovative practices, and the acquisition of new professional skills, in particular linked to the sustainable management of marine ecosystems, hygiene, health, safety, activities in the maritime sector, innovation and entrepreneurship;
- (b) networking and exchange of experiences and best practices between stakeholders, including among organisations promoting equal opportunities between men and women, promoting the role of women in fishing communities and promoting under-represented groups involved in small-scale coastal fishing or in on-foot fishing; or
- (c) social dialogue at Union, national, regional or local level involving fishers, social partners and other relevant stakeholders.

2. The aid to support activities listed in paragraph 1 may also be granted to spouses of self-employed fishers or, where and in so far as recognised by national law, the life partners of self-employed fishers, not being employees or business partners, where they habitually, under the conditions laid down by national law, participate in the activities of the self-employed fisher and perform the same or ancillary tasks.

3. The amount of aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs, except in the case of professional navigation training and safety training where the maximum aid intensity rate of 100 % applies. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 19

##### **Aid to facilitate diversification and new forms of income**

1. Aid to facilitate diversification and new forms of income fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims to support investments contributing to the diversification of the income of fishers through the development of complementary activities, including investments on board, angling tourism, restaurants, environmental services related to fishing and educational activities concerning fishing;

- (b) the aid supports fishers who:
- (i) submit a business plan for the development of their new activities; and
  - (ii) possess adequate professional skills or acquire it through operations which may be financed under Article 18(1), point (a).
2. The aid referred to in paragraph 1, point (a), shall only be granted if the complementary activities relate to the fisher's core fishing business.
3. The amount of the aid granted under this Article shall not exceed 50 % of the budget foreseen in the business plan for each operation, and shall not exceed a maximum amount of EUR 75 000 for each beneficiary undertaking.

#### Article 20

##### **Aid to first acquisition of a fishing vessel**

1. Aid to the first acquisition of a fishing vessel or the first acquisition of partial ownership fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
- (a) the aid contributes to strengthening economically, socially and environmentally sustainable fishing activities and the beneficiary undertaking has provided verifiable information and a business plan that attests to this; and
  - (b) the aid supports first acquisition of a fishing vessel by a natural person who is no more than 40 years of age at the date of submission of the application for aid and has worked at least five years as a fisher or has acquired adequate qualifications.
2. Aid under paragraph 1 may also be granted to legal entities wholly owned by one or more natural persons who each fulfil the conditions set out in paragraph 1.
3. Aid under this Article may be granted for the joint first acquisition of a fishing vessel by several natural persons who each fulfil the conditions set out in paragraph 1.
4. Support under this Article may also be granted for the first acquisition of partial ownership of a fishing vessel by a natural person who fulfils the conditions set out in paragraph 1 and who shall be deemed to have controlling rights on that vessel through ownership of at least of 33 % of the fishing vessel or of the shares in the fishing vessel or by a legal entity which fulfils the conditions set out in paragraph 2 and which shall be deemed to have controlling rights on that vessel through ownership of at least of 33 % of the fishing vessel or of the shares in the fishing vessel.
5. Aid shall be granted only in respect of a fishing vessel which complies with all the following requirements:
- (a) belongs to a fleet segment for which the latest report on fishing capacity, referred to in Article 22(2) of Regulation (EU) No 1380/2013, has shown a balance with the fishing opportunities available to that segment;
  - (b) is equipped for fishing activities;
  - (c) is not longer than 24 metres in overall length;
  - (d) has been registered in the Union fleet register for at least three calendar years preceding the year of submission of the application for aid in the case of a small-scale coastal fishing vessel, and for at least five calendar years in the case of another type of vessel; and
  - (e) has been registered in the Union fleet register for a maximum of 30 calendar years preceding the year of submission of the application for aid.
6. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 40 % of the eligible costs and shall in any event not be higher than EUR 75 000 per fisher and fishing vessel.

*Article 21***Aid to improve health, safety and working conditions for fishers**

1. Aid to improve health, safety and working conditions for fishers fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid is granted only in respect of investments on board or in individual equipment and those go beyond the requirements under Union or national law; and
- (b) the aid does not support operations that increase the gross tonnage of a fishing vessel.

2. For operations that are aimed at improving safety for fishers, the purchase and, if applicable, the installation of the following items are eligible for support:

- (a) life rafts;
- (b) hydrostatic release units for life-rafts;
- (c) personal locator beacons such as Emergency Position Indicating Radio Beacon ('EPIRB') devices, which may be integrated into lifejackets and working clothes of fishers;
- (d) Personal Flotation Devices ('PFD'), in particular immersion or survival suits, life buoys and jackets;
- (e) distress flares;
- (f) line-throwing appliances;
- (g) man-overboard ('MOB') recovery systems;
- (h) fire-fighting apparatus, such as fire extinguishers, fire blankets, fire and smoke detectors, breathing apparatus;
- (i) fire protection doors;
- (j) fuel tank shut-off valves;
- (k) gas detectors and gas alarm systems;
- (l) bilge pumps and alarms;
- (m) equipment for radio and satellite communications;
- (n) watertight hatches and doors;
- (o) guards on machinery, such as winches or net drums;
- (p) gangways and access ladders;
- (q) search, deck or emergency lighting;
- (r) safety release mechanism for cases where fishing gear catches an underwater obstruction;
- (s) safety cameras and monitors;
- (t) equipment and elements necessary to improve deck safety.

3. For operations or the provision of equipment that are aimed at the improvement of the health conditions for fishers, the following actions are eligible for support:

- (a) the purchase and installation of first aid kits;

- (b) the purchase of medicines and devices for urgent treatment;
- (c) the provision of telemedicine including e-technologies, equipment and medical imagery applied to distance consultation from the vessels;
- (d) the provision of guides and manuals to improve health;
- (e) information campaigns to improve health.

4. For operations or the provision of equipment that are aimed at the improvement of hygiene conditions for fishers, the purchase and, if applicable, the installation of the following items are eligible for support:

- (a) sanitary facilities, such as toilet and washing facilities;
- (b) kitchen facilities and equipment for food supplies storage;
- (c) water purification devices for potable water;
- (d) ventilation, cleaning or disinfection equipment or systems to maintain on board adequate sanitary conditions;
- (e) guides and manuals on the improvement of hygiene on board, including software tools.

5. For operations or the provision of equipment that are aimed at the improvement of working conditions on board fishing vessels, the purchase and, if applicable, the installation of the following items are eligible for support:

- (a) deck railings;
- (b) shelter deck structures and the modernisation of cabins with a view to providing protection from adverse climatic events which can be assimilated to a natural disaster;
- (c) items relating to the improvement of cabin safety and to the provision of common areas for the crew;
- (d) equipment to reduce heavy manual lifting, excluding machines directly related to the fishing operations such as winches;
- (e) anti-slipping paint and rubber mats;
- (f) insulation equipment against noise, heat or cold, and equipment to improve ventilation;
- (g) working clothes and safety equipment such as waterproof safety boots, eyes and breathing protection, protective gloves and helmets, or protective equipment against falls;
- (h) emergency and safety warning signs;
- (i) risk analysis and assessments to identify the risks for fishers both in port or in navigation in order to take measures to prevent or reduce risks;
- (j) guides and manuals on the improvement of working conditions on board;
- (k) collective vehicles for transport from shellfish zones to first sale places;
- (l) on-shore facilities for fishermen on foot that improve working conditions, such as changing rooms, bathrooms, and other sanitary facilities, in particular those that encourage and promote women's entry into the labour market.

6. The aid shall be granted to fishers, including when applicable fisher on foot, or owners of fishing vessels.

7. Where the operation consists of an investment on board, the aid shall not be granted more than once during the period between 1 January 2023 and 31 December 2029 for the same type of investment and for the same fishing vessel. Where the operation consists of an investment in individual equipment, the aid shall not be granted more than once during the period between 1 January 2023 and 31 December 2029 for the same type of equipment and for the same beneficiary undertaking.



8. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 22

##### **Aid for the payment of insurance premiums and for financial contributions to mutual funds**

1. Aid for the payment of insurance premiums and for financial contributions to mutual funds fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims to contribute to premiums for insurances or mutual funds or which pay financial compensation to fishers for economic losses caused by behaviour of the protected animals, public health crises, adverse climatic events which can be assimilated to a natural disaster or by environmental incidents or for the rescue costs for fishers or fishing vessels in the case of accidents at sea during their fishing activities;
- (b) the combination of financial compensation paid by mutual funds under this Article with other Union or national instruments or insurance schemes does not lead to overcompensation exceeding the economic loss incurred;
- (c) the insurance does not require or specify the type or quantity of future production and the aid is not limited to insurance provided by a specific insurance company or group of companies; and
- (d) the mutual fund is accredited by the competent authority of a Member State in accordance with national laws.

2. For the purposes of this Article:

- (a) public health crises, adverse climatic events which can be assimilated to a natural disaster, environmental incidents or accidents at sea referred to in paragraph 1, point (a), shall be those that are formally recognised by the competent authority of the Member State as having occurred;
- (b) the term 'mutual fund' means a scheme accredited by the Member State, in accordance with its national law, which enables affiliated fishers to insure themselves, whereby compensation payments are made to affiliated fishers for economic losses caused by the events listed in paragraph 1, point (a). The mutual fund shall have a transparent policy towards payments into and withdrawals from the fund and have clear rules attributing responsibilities for any debts incurred.

3. The maximum aid intensity shall be limited to:

- (a) 50 % of the amounts paid by the mutual fund as financial compensation to fishers;
- (b) 100 % of the administrative costs of setting up the mutual fund;
- (c) 70 % of the costs of the insurance premium;
- (d) 50 % of the initial capitalisation of the fund.

4. The contributions referred to in paragraph 1, point (a), shall only be granted to cover losses caused by public health crises, adverse climatic events which can be assimilated to a natural disaster, environmental incidents or accidents at sea.

#### Article 23

##### **Aid to support systems of allocation of fishing opportunities**

1. Aid to support systems of allocation of fishing opportunities fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims to support the design, development, monitoring, evaluation and management of the systems for allocating the fishing opportunities between Member States, in accordance with Article 16(8) of Regulation (EU) No 1380/2013, in order to adapt the fishing activities to the fishing opportunities; and

- (b) the aid shall be granted to legal or natural persons or organisations of fishers recognised by the Member State, including recognised producer organisations involved in the collective management of the systems allocating the fishing opportunities.
2. The aid shall take the form of a subsidised service or direct grant.
  3. The aid may only cover the following eligible costs:
    - (a) direct salary costs
    - (b) purchase or lease of tangible or intangible assets up to the market value of the asset
    - (c) costs of publications; or
    - (d) purchase of design and development services or studies.
  4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### Article 24

##### **Aid to limit the impact of fishing on the environment and adapt fishing to the protection of species**

1. Aid to limit the impact of fishing on the environment and adapt fishing to the protection of species fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that: the aid aims to reduce the impact of fishing on the marine environment, at fostering the gradual elimination of discards and at facilitating the transition to a sustainable exploitation of living marine biological resources in accordance with Article 2(2) of Regulation (EU) No 1380/2013.
2. The aid shall support the following:
  - (a) investments in equipment improving size selectivity or species selectivity of fishing gear;
  - (b) investments on board or in equipment that eliminates discards by avoiding and reducing unwanted catches of commercial stocks, or that deals with unwanted catches to be landed in accordance with Article 15 of Regulation (EU) No 1380/2013;
  - (c) investments in equipment that limits and, where possible, eliminates the physical and biological impacts of fishing on the ecosystem or the sea bed; or
  - (d) investments in equipment that protects fishing gear and catches from mammals and birds protected by Council Directive 92/43/EEC <sup>(25)</sup> or Directive 2009/147/EC of the European Parliament and of the Council <sup>(26)</sup>, provided that it does not undermine the selectivity of the fishing gear and that all appropriate measures are introduced to avoid physical damage to the predators.
3. The aid shall not be granted more than once during the period between 1 January 2023 and 31 December 2029 for the same type of equipment on the same Union fishing vessel.
4. The aid shall only be granted where the fishing gear or other equipment referred to in paragraph 2 of this Article has a demonstrably better size-selection or a demonstrably lower impact on the ecosystem and on non-target species than the standard gear or other equipment permitted under Union law, or under relevant national law adopted in the context of regionalisation as provided for in Regulation (EU) No 1380/2013.
5. The aid shall be granted to:
  - (a) owners of Union fishing vessels which are registered as active vessels and which have carried out fishing activities at sea of at least 60 days during the two calendar years preceding the date of submission of the application for aid;
  - (b) fishers who own the gear to be replaced and who have worked on board of a Union fishing vessel for at least 60 days during the two calendar years preceding the date of submission of the application for aid;

<sup>(25)</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>(26)</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

(c) organisations of fishers recognised by the Member State.

6. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### Article 25

##### **Aid for innovation linked to the conservation of marine biological resources**

1. Aid for innovation linked to the conservation of marine biological resources fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims to contribute to the gradual elimination of discards and by-catches and to facilitate the transition to exploitation of living marine biological resources in accordance with Article 2(2) of Regulation (EU) No 1380/2013 and to reduce the impact of fishing on the marine environment and protected animals;
- (b) the aid supports operations aimed at developing or introducing new technical or organisational knowledge that reduces the impact of fishing activities on the environment, including improved fishing techniques and gear selectivity, or aimed at achieving a more sustainable use of marine biological resources and coexistence with protected animals;
- (c) the supported operations shall be carried out by, or in collaboration with, a scientific or technical body, recognised by the Member State, which shall validate the results of such operations; and
- (d) the results of supported operations are adequately publicised by the Member State.

2. The aid shall take the form of a subsidised services.

3. Fishing vessels involved in projects financed under this Article shall not exceed 5 % of the number of fishing vessels of the national fleet or 5 % of the national fleet tonnage in gross tonnage, calculated at the time of adoption of the support instrument.

4. The eligible costs may only be the following:

- (a) direct personnel costs related to researchers, technicians and other supporting staff to the extent employed on the project;
- (b) costs of instruments and equipment to the extent and for the period used for the project; where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible;
- (c) costs of buildings and land, to the extent and for the duration period used for the project and under the following conditions:
  - (i) 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;
  - (ii) with regard to land, only 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; or
- (e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.

5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

*Article 26***Aid for the protection and restoration of marine biodiversity and ecosystems and regimes in the framework of sustainable fishing activities**

1. Aid for the protection and restoration of marine biodiversity and ecosystems and regimes in the framework of sustainable fishing activities fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof.

2. The aid under this Article shall support the following operations:

(a) the collection of waste by the fisher from the sea such as the passive collection of lost fishing gear and marine litter; only the following actions are eligible for support:

(i) the removal of lost fishing gear from the sea, in particular in order to combat ghost fishing;

(ii) the purchase and, if applicable, the installation of equipment on board for the collection and storage of litter;

(iii) the creation of schemes of waste collection for participating fishers, including financial incentives;

(iv) the purchase and, if applicable, the installation of equipment based in fishing port facilities for the storage and recycling of litter;

(v) communication, information, awareness raising campaigns, to encourage fishers and other stakeholders to participate in projects to remove lost fishing gear; or

(vi) training for fishers and port agents;

(b) the construction, installation or modernisation of static or movable facilities intended to protect and enhance marine fauna and flora, including their scientific preparation and evaluation; only the following actions are eligible for support:

(i) the purchase and, if applicable, the installation of facilities to protect marine areas from trawling;

(ii) the purchase and, if applicable, the installation of facilities to restore degraded marine ecosystems; or

(iii) costs relating to preliminary work such as prospecting, scientific studies or evaluations.

Acquisition of a vessel to be submerged and used as an artificial reef shall not be eligible;

(c) contributions to a better management or conservation of marine biological resources by installing the following items or taking the following actions and projects:

(i) circular hooks;

(ii) acoustic deterrent devices;

(iii) turtle excluder devices ('TEDs');

(iv) streamer lines;

(v) other tools or devices proven efficient in preventing accidental catches of protected animals;

(vi) training for fishers on better management or conservation of marine biological resources;

(vii) projects focussing on coastal habitats of importance for fish, birds and other organisms;

(viii) projects focusing on areas of importance for fish reproduction, such as coastal wetlands; or

(ix) replacement of existing fishing gear with low impact fishing gear, costs related to fish pots and traps, jigging and hand-lining;

- (d) the participation in other actions aimed at maintaining and enhancing biodiversity and ecosystem services, such as the restoration of specific marine and coastal habitats in support of sustainable fish stocks, including their scientific preparation and evaluation; costs related to the following actions are eligible for support:
- (i) schemes to test novel monitoring techniques, and in particular:
    - remote electronic monitoring systems, such as closed-circuit television ('CCTV') or video-control systems, for the monitoring and recording of incidental catches of protected animals,
    - the recording of oceanographic data such as temperature, salinity, plankton, algae blooms or turbidity,
    - the mapping of invasive alien species ('IAS'),
    - actions, including studies, to prevent and control the expansion of IAS;
  - (ii) financial incentives for the installation on board of automatic recording devices for monitoring and recording oceanographic data such as temperature, salinity, plankton, algae blooms or turbidity;
  - (iii) measures reducing physical and chemical pollution;
  - (iv) measures reducing other physical pressures, including anthropogenic underwater noise that negatively affect biodiversity;
  - (v) positive conservation measures to protect and conserve flora and fauna, including the reintroduction of or stocking with native species, and applying Green Infrastructure principles referred to in the Commission Communication on Green Infrastructure <sup>(27)</sup>; or
  - (vi) measures to prevent, control or eliminate IAS.

3. Support under paragraph 2, point (d), shall be subject to the formal recognition of such schemes or measures by the competent authorities of the Member States. Member States shall also ensure that no overcompensation occurs as a result of the combination of Union, national and private schemes.

4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### Article 27

##### **Aid to improve energy efficiency and to mitigate the effects of climate change**

1. Aid to improve energy efficiency and to mitigate the effects of climate change, with the exception of aid to replace or modernise engines, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof.

2. The aid granted under this Article may only cover the following measures:

- (a) investments in equipment or on board aimed at reducing the emission of pollutants or greenhouse gases and increasing the energy efficiency of fishing vessels. Investments in fishing gear are also eligible provided that they do not undermine the selectivity of that fishing gear;
- (b) energy efficiency audits and schemes; or
- (c) studies to assess the contribution of alternative propulsion systems and hull designs to the energy efficiency of fishing vessels.

3. Aid under paragraph 2 shall only be granted to owners of fishing vessels and shall not be granted more than once for the same type of investment during the period between 1 January 2023 and 31 December 2029 for the same fishing vessel.

<sup>(27)</sup> Commission Communication, Green Infrastructure (GI) — Enhancing Europe's Natural Capital, COM(2013) 249 final, 6.5.2013.

4. The eligible costs are the direct additional costs incurred as a result of operations concerned. For the purposes of point (a) in paragraph 2, eligible costs related to:

- (i) measures that are aimed at improving the hydrodynamics of the hull of the vessel may only cover:
  - investments on stability mechanisms such as bilge keels and bulbous bows that contribute to improving sea-keeping and stability,
  - costs related to the use of non-toxic antifouling such as copper coating in order to reduce friction,
  - costs relative to the steering gear, such as steering gear control systems and multiple rudders to reduce rudder activity depending on weather and sea-state conditions, or
  - tank testing in order to provide a basis for improving hydrodynamics;
- (ii) measures that are aimed at improving the propulsion system of the vessel may only cover costs related to the purchase and, if necessary, the installation of the following items:
  - energy efficient propellers including drive shafts,
  - catalysers,
  - energy efficient generators such as those using hydrogen, or natural gas,
  - renewable energy propulsion elements such as sails, kites, windmills, turbines, or solar panels,
  - bow thrusters,
  - econometers, fuel management systems and monitoring systems, or
  - investments in nozzles that improve the propulsion system;
- (iii) investments in fishing gear and fishing equipment may only cover costs relating to the following measures:
  - change from towed gear to alternative gear,
  - towed gear modifications, or
  - investments in towed gear monitoring equipment;
- (iv) investments that are aimed at the reduction of electricity or thermal energy may only cover:
  - investments to improve the refrigeration, freezing, or insulation systems for vessels, or
  - investments to encourage the recycling of heat within the vessel involving the heat being recovered and reused for other auxiliary operations within the vessel.

Costs relating to basic hull maintenance shall not be eligible for aid under point (a) in paragraph 2.

5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 28

##### **Aid for added value, product quality and use of unwanted catches**

1. Aid for added value, product quality and use of unwanted catches, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims to improve the added value or quality of the fish caught;
- (b) the aid covers only the following eligible costs:
  - (i) investments that add value to fishery products, in particular by allowing fishers to carry out the processing, marketing and direct sale of their own catches; or
  - (ii) innovative investments on board that improve the quality of the fishery products.

2. The aid referred to in paragraph 1, point (b)(ii), shall be conditional on the use of selective gears to minimise unwanted catches and shall only be granted to owners of Union fishing vessels that have carried out a fishing activity at sea for at least 60 days during the two calendar years preceding the date of submission of the application for aid.

3. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 29

##### **Aid for fishing ports, landing sites, auction halls and shelters**

1. Aid for fishing ports, landing sites, auction halls and shelters fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims to increase the quality, control and traceability of the products landed, increasing energy efficiency, contributing to environmental protection and improving safety and working conditions;
- (b) the aid covers the following eligible investment costs that:
  - (i) improve the infrastructure of fishing ports, auction halls, landing sites and shelters, including investments in adequate reception facilities for lost fishing gears and marine litter collected from the sea;
  - (ii) facilitate compliance with the obligation to land all catches in accordance with Article 15 of Regulation (EU) No 1380/2013 and Article 8(2), point (b), of Regulation (EU) No 1379/2013 or add value to under-used components of the catch; or
  - (iii) improve the safety of fishers by way of construction or modernisation of shelters.

2. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 30

##### **Aid for inland fishing and inland aquatic fauna and flora**

1. Aid for inland fishing and inland aquatic fauna and flora fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid aims:

- (a) to reduce the impact of inland fishing on the environment;
- (b) to increase energy efficiency;
- (c) to increase the value or quality of fish landed; or
- (d) to improve health, safety, working conditions, human capital and training.

2. The aid under this Article may only support the following eligible costs:

- (a) investments in the promotion of human capital, job creation and social dialogue referred to in Article 18 and under the conditions set out in that Article;
- (b) investments on board or in individual equipment as referred to in Article 21 and under the conditions set out in that Article;
- (c) investments in equipment referred to in Article 24 and under the conditions set out in that Article;
- (d) investments in the improvement of energy efficiency and the mitigation of the effects of climate change referred to in Article 27 and under the conditions set out in that Article;
- (e) investments in the improvement of the added value or quality of the fish caught referred to in Article 28 and under the conditions set out in that Article;

- (f) investments fishing ports, shelters and landing sites referred to in Article 29 and under the conditions set out in that Article; or
- (g) investments in nets or other fishing gear subjected to increased wear and tear due to damage caused by animals other than fish including invasive species and in related equipment.
3. The aid may provide support for the innovation in accordance with Article 15, for the advisory services in accordance with Article 16 and for partnerships between scientists and fishers in accordance with Article 17.
4. In order to promote diversification by inland fishers, the aid may support the diversification of inland fishing activities to complementary activities under the conditions laid down in Article 19.
5. For the purpose of paragraph 2 of this Article:
- (a) references made in Articles 21, 24, 27 and 28 to fishing vessels shall be understood as references to vessels operating exclusively in inland waters;
- (b) references made in Article 24 to the marine environment shall be understood as reference to the environment in which the inland fishing vessel operates;
- (c) conditions set out in Articles 21, 24 and 27 that are specific to marine fishing vessels shall not be extended to inland fishing.
6. In order to protect and develop aquatic fauna and flora, the aid may only support:
- (a) the management, restoration and monitoring of Natura 2000 sites which are affected by fishing activities, and the rehabilitation of inland waters in accordance with Directive 2000/60/EC of the European Parliament and the Council <sup>(28)</sup>, including spawning grounds and migration routes for migratory species, without prejudice to Article 26 (2), point (d), of this Regulation and, where relevant, with the participation of inland fishers;
- (b) the construction, modernisation or installation of static or movable facilities intended to protect and enhance aquatic fauna and flora, including their scientific preparation, monitoring and evaluation.
7. Member States shall ensure that fishing vessels receiving support under this Article continue to operate exclusively in inland waters.
8. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs, with the exception of the measure in paragraph 2, point (g), for which an aid intensity of 40 % shall apply. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## Section 2

### Fostering sustainable aquaculture activities

#### Article 31

##### General conditions

1. Aid granted under this section shall fulfil the following general conditions:
- (a) it shall be limited to aquaculture undertakings, unless otherwise stated in this Regulation;
- (b) where operations consist of investments in equipment or infrastructure ensuring compliance with future requirements relating to the environment, human or animal health, hygiene or animal welfare under Union law, support may be granted until the date on which such requirements become mandatory for the undertakings;
- (c) it shall not be granted to the farming of genetically modified organisms;
- (d) it shall not be granted to aquaculture operations in marine protected areas, if it has been determined by the competent authority of the Member State, on the basis of an environmental impact assessment, that the operation would generate significant negative environmental impact that cannot be adequately mitigated.

<sup>(28)</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).



2. Aid under this section for investments that aim at exploiting new markets shall be granted only where the beneficiary undertaking provides documentation that good and sustainable market prospects exist for the project.

3. For investment requiring an environmental impact assessment under Directive 2011/92/EU of the European Parliament and of the Council <sup>(29)</sup> the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.

#### Article 32

##### **Aid for innovation in aquaculture**

1. Aid for innovation in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

(a) the aid stimulates innovation in aquaculture;

(b) the aid aims to achieve the following:

(i) develop technical, scientific or organisational knowledge in aquaculture farms, which, in particular, reduces the impact on the environment, reduces dependence on fish meal and oil, fosters a sustainable use of resources in aquaculture, improves animal welfare or facilitates new sustainable production methods;

(ii) develop or introduce on the market new aquaculture species with market potential, new or substantially improved products, new or improved processes, or new or improved management and organisation systems;

(iii) explore the technical or economic feasibility of innovative products or processes.

2. Subsidised services under this Article shall be carried out by, or in collaboration with, public or private scientific or technical bodies, recognised by the Member State, which shall validate the results of subsidised services.

3. The results of projects receiving support shall be adequately publicised by the Member State.

4. The eligible costs may be the following:

(a) direct personnel costs related to researchers, technicians and other supporting staff to the extent employed on the project;

(b) costs of instruments and equipment to the extent and for the period used for the project;

(c) costs of buildings, to the extent and for the duration period used for the project and under the following conditions:

(i) 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;

(ii) 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, as well as costs of consultancy and equivalent services used exclusively for the project; or

(e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.

For the purposes of point (b), where those 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.

5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

<sup>(29)</sup> 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).

*Article 33***Aid for investments increasing productivity or positively impacting the environment in aquaculture**

1. Aid for investments increasing productivity or positively impacting the environment in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports:

- (a) productive investments in aquaculture;
- (b) diversification of aquaculture production and species cultured;
- (c) modernisation of aquaculture units, including the improvement in working and safety conditions of aquaculture workers;
- (d) improvements and modernisation related to animal health and welfare, including the purchase of equipment aiming at protecting the farms from wild predators;
- (e) investments reducing the negative impact or enhancing the positive effects on the environment and increasing resource efficiency;
- (f) investments in enhancing the quality of, or in adding value to, aquaculture products;
- (g) the restoration of existing aquaculture ponds or lagoons through the removal of silt, or investments aimed at the prevention of silt deposits;
- (h) the diversification of the income of aquaculture undertakings through the development of complementary activities;
- (i) investments resulting in a substantial reduction in the impact of aquaculture undertakings on water usage and quality, in particular through reducing the amount of water or chemicals, antibiotics and other medicines used, or through improving the output water quality, including through the deployment of multi-trophic aquaculture systems;
- (j) the promotion of closed aquaculture systems where aquaculture products are farmed in closed recirculation systems, thereby minimising water use; or
- (k) investments increasing energy efficiency and promoting the conversion of aquaculture undertakings to renewable sources of energy.

2. Aid referred to in paragraph 1, point (h), shall only be granted to aquaculture undertakings if the complementary activities relate to the core aquaculture business of the undertakings, including angling tourism, environmental services related to aquaculture or educational activities concerning aquaculture.

3. Aid referred to in paragraph 1 of this Article may be granted for investments that increase production and/ or modernisation of existing aquaculture undertakings, or for the construction of new production capacity, provided that the development is consistent with the plan for the development of aquaculture referred to in Article 34 of Regulation (EU) No 1380/2013.

4. Investments referred to in paragraph (1), point (e), include those related to the use of more sustainable feed, the reduction and management of nutrient release and effluents, the reduction of escapees, the use of chemicals and medicines with lower impact on the environment, the adoption of a circular approach in the management of waste, the disposal of aquaculture gear or the use of biodegradable aquaculture gear to avoid marine litter, the management of predators, and those that make a measurable contribution on the restoration of biodiversity or ecological continuity.

5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply. For operations positively impacting the environment the maximum aid intensity rate shall be 80 % unless a higher aid intensity rate would be applicable with regard to Annex IV.

*Article 34***Aid for the management, relief and advisory services for aquaculture farms**

1. Aid for the management, relief and advisory services for aquaculture farms fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid improves the overall performance and competitiveness of aquaculture farms;
- (b) the aid reduces the negative environmental impact of aquaculture farms; and
- (c) the aid supports the purchase of farm advisory services of a technical, scientific, legal, environmental or economic nature.;

For purposes of point (c), the aid shall only be granted to aquaculture SMEs or aquaculture organisations, including aquaculture producer organisations and associations of aquaculture producer organisations.

2. Advisory services referred to in paragraph 1, point (c), shall cover:

- (a) the management needs to enable aquaculture farms to comply with Union and national environmental legislation, as well as with maritime spatial planning requirements;
- (b) environmental impact assessment as referred to in Directive 2011/92/EU and Directive 92/43/EEC;
- (c) the management needs to enable aquaculture farms to comply with Union and national aquatic animal health and welfare or public health legislation;
- (d) standards based on Union and national legislation;
- (e) marketing and business strategies; or
- (f) feasibility studies and advisory services that assess the viability of measures potentially eligible for support under Title II, Chapter III of Regulation (EU) 2021/1139.

3. Advisory services referred to in paragraph 1 shall be provided by scientific or technical bodies, as well as by entities providing legal or economic advice with the required competences as recognised by the Member State. The aid shall take the form of a subsidised service or direct grant.

4. Beneficiary undertakings shall not receive aid more than once per year for each category of advisory service listed in paragraph 2.

5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

*Article 35***Aid to promote human capital and networking in aquaculture**

1. Aid to promote human capital and networking in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports the following:

- (a) professional training, lifelong learning, the dissemination of scientific and technical knowledge and innovative practices, the acquisition of new professional skills in aquaculture and with regard to the reduction of the environment impact of aquaculture operations;
- (b) the improvement of working conditions and the promotion of occupational safety; and
- (c) networking and exchange of experiences and best practices among aquaculture undertakings or professional organisations and other stakeholders, including scientific and technical bodies or those promoting equal opportunities between men and women.

2. The aid shall take the form of a subsidised service or direct grant.

3. The aid may only cover the following eligible costs incurred directly as a result of the supported project:

- (a) direct salary costs
- (b) participation fees;
- (c) travel costs;
- (d) costs of publications;
- (e) purchased data collection services, studies, pilot projects;
- (f) the rent of exhibition premises and stands and the costs of their installation and dismantling; or
- (g) costs for the dissemination of scientific knowledge and factual information.

4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 36

##### **Aid to increase the potential of aquaculture sites**

1. Aid to increase the potential of aquaculture sites in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid contributes positively to development of the aquaculture sites and infrastructures and reduces the negative environmental impact of the operations;
- (b) the aid supports the following:
  - (i) the identification and mapping of the most suitable areas for developing aquaculture, taking into account, where applicable, spatial planning processes, and the identification and mapping of areas where aquaculture should be excluded in order to maintain the role of such areas in the functioning of the ecosystem;
  - (ii) the improvement and development of support facilities and infrastructures required to increase the potential of aquaculture sites and to reduce the negative environmental impact of aquaculture, including investments in land consolidation, energy supply or water management;
  - (iii) action taken and implemented by competent authorities under Article 9(1) of Directive 2009/147/EC or Article 16(1) of Directive 92/43/EEC, with the aim of preventing serious damage to aquaculture; or
  - (iv) action taken and implemented by competent authorities following the detection of increased mortalities or diseases as provided for in Regulation (EU) 2016/429 of the European Parliament and of the Council<sup>(30)</sup> and Commission Delegated Regulation (EU) 2020/689<sup>(31)</sup>.

For purposes of point (b)(iv), aid shall only be granted to cover the adoption of shellfish action plans aimed at the protection, restoration and management, including support to shellfish producers for the maintenance, of natural shellfish banks and catchment areas.

2. The eligible costs may be the following incurred directly as a result of the project:

- (a) the costs of investment in tangible and intangible assets;
- (b) direct salary costs; or
- (c) the costs of consultancy, contractual research, and support services provided by external consultants.

<sup>(30)</sup> 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).

<sup>(31)</sup> Commission Delegated Regulation (EU) 2020/689 of 17 December 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for surveillance, eradication programmes, and disease-free status for certain listed and emerging diseases (OJ L 174, 3.6.2020, p. 211).

3. Beneficiary undertakings under this Article shall only be those undertakings who have been entrusted by the Member State with the tasks referred to in paragraph 1, point (b).

4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 37

##### **Aid to encourage new aquaculture entrepreneurs practising sustainable aquaculture**

1. Aid to encourage new aquaculture entrepreneurs practising sustainable aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that

- (a) the aid fosters entrepreneurship in aquaculture; and
- (b) the aid supports the setting-up of sustainable aquaculture undertakings by new entrepreneurs.

2. The aid shall be granted to aquaculture entrepreneurs entering the sector provided that they:

- (a) possess adequate professional skills and competence;
- (b) set up for the first time an aquaculture SMEs, as managers of that undertaking; and
- (c) submit a business plan for the development of their aquaculture activities.

3. In order to acquire adequate professional skills, aquaculture entrepreneurs entering the sector may benefit from aid referred in Article 35(1).

4. The eligible costs may be the following incurred directly as a result of the project:

- (a) salary costs;
- (b) additional overheads and other costs, including costs of materials, supplies;
- (c) costs of equipment; or
- (d) the investment costs in tangible and intangible assets.

5. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 38

##### **Aid for the conversion to eco-management and audit schemes and organic aquaculture**

1. Aid for the conversion to eco-management and audit schemes and organic aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that

- (a) the aid promotes the development of organic or energy-efficient aquaculture;
- (b) the aid supports one of the following:
  - (i) the conversion of conventional aquaculture production methods into organic aquaculture within the meaning Regulation (EU) 2018/848<sup>(32)</sup> and in accordance with Commission Implementing Regulation (EU) 2021/1165<sup>(33)</sup>;
  - (ii) the participation in the Union eco-management and audit schemes (EMAS) in accordance with Regulation (EC) No 1221/2009 of the European Parliament and of the Council<sup>(34)</sup>.

<sup>(32)</sup> 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).

<sup>(33)</sup> Commission Implementing Regulation (EU) 2021/1165 of 15 July 2021 authorising certain products and substances for use in organic production and establishing their lists (OJ L 253, 16.7.2021, p. 13).

<sup>(34)</sup> Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).

2. The aid shall only be granted with regard to the conversion of beneficiary undertakings who commit themselves to participate in the EMAS for a minimum of three years or to comply with the requirements of organic production for a minimum of five years. A revision clause shall be provided in commitments undertaken pursuant to this paragraph in order to ensure their adjustment in the case of amendments of the relevant mandatory requirements, standards and conditions referred to in this Article.

3. Aid shall take the form of compensation for a maximum of three years during the period of the conversion of the undertaking to organic production, or during the preparation for participation in the EMAS. Member States shall calculate that compensation on the basis of one of the following:

- (a) the loss of revenue or additional costs incurred during the period of transition from conventional into organic production for operations eligible under paragraph 1, point (b)(i);
- (b) the additional costs resulting from the application and preparation of the participation in EMAS for operations eligible under paragraph 1, point (b)(ii).

4. If the beneficiary undertaking is not able to comply with the commitments under paragraph 2 due to exceptional and external circumstances the aid amount calculated under paragraph 3 shall be deducted and recovered proportionally based on the duration of the initial commitment and time that the commitments were not complied with.

5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 39

#### Aid for environmental services

1. Aid to undertakings active in the aquaculture sector that provide environmental services fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fosters the development of the aquaculture sector providing environmental services; and
- (b) the aid supports one of the following measures:
  - (i) aquaculture methods compatible with specific environmental needs and subject to specific management requirements resulting from the designation of NATURA 2000 areas in accordance with Directives 92/43/EEC and 2009/147/EC;
  - (ii) participation, in terms of costs directly related thereto, in *ex-situ* conservation and reproduction of aquatic animals, within the framework of conservation and biodiversity restoration programmes developed by public authorities, or under their supervision;
  - (iii) aquaculture operations which include conservation and improvement of the environment and of biodiversity, and management of the landscape and traditional features of aquaculture zones.

2. Aid referred to in paragraph 1, point (b)(i), of this Article shall take the form of annual compensation. The eligible costs are the additional costs incurred and/or income foregone as a result of management requirements in the areas concerned, related to the implementation of Directives 92/43/EEC or 2009/147/EC.

3. For the purposes of point (b)(ii) in paragraph 1, the eligible costs are the direct additional costs incurred as a result of operations concerned.

4. Aid referred to in paragraph 1, point (b)(iii), shall be granted only to beneficiary undertakings who commit themselves for a minimum period of five years to aqua-environmental requirements that go beyond the mere application of Union and national law. The environmental benefits of the operation shall be demonstrated by a prior assessment conducted by competent bodies designated by the Member State, unless the environmental benefits of that operation are already recognised.

5. Aid referred to in paragraph 1, point (b)(iii), shall take the form of annual compensation. The eligible costs are the direct additional costs incurred and/or income foregone.
6. The results of operations receiving aid under this Article shall be adequately publicised by the Member State.
7. For commitments undertaken pursuant to this Article, a revision clause shall be provided in order to ensure their adjustment in the case of amendments of the relevant mandatory requirements, standards and conditions referred to in this Article.
8. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### Article 40

##### **Aid for public health measures**

1. Aid for public health measures fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports a compensation scheme which compensates mollusc farmers for the temporary suspension of the harvesting of farmed molluscs, where such suspension occurs exclusively for reasons of public health.
2. Aid referred to in paragraph 1 may only be granted where the closing of the classified production or relaying area, in accordance with Article 62 of Commission Implementing Regulation (EU) 2019/627 <sup>(35)</sup> is due to the proliferation of toxin-producing plankton or to the presence of plankton containing biotoxins exceeding the limits established in Annex III, Section VII, Chapter V of Regulation (EC) No 853/2004 of the European Parliament and of the Council <sup>(36)</sup>, and provided that:
  - (a) the contamination lasts for more than four consecutive months; or
  - (b) the loss, resulting from the suspension of the harvest, amounts to more than 25 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the three calendar years preceding the year in which the harvest was suspended;

For the purposes of point (b) of the first subparagraph, Member States may establish special calculation rules in respect of companies with less than three years of activity.

3. The duration for which compensation may be granted shall be a maximum of 12 months between 1 January 2023 and 31 December 2029. In duly justified cases, it may be extended once for a maximum of an additional 12 months up to a combined maximum of 24 months.
4. The eligible costs are the direct additional costs incurred and/or income foregone as a result of the measures concerned. The compensation calculated shall be reduced by any costs not directly incurred due to the event which would otherwise have been incurred by the beneficiary.
5. The aid and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

#### Article 41

##### **Aid for animal health and welfare measures**

1. Aid for animal health and welfare in aquaculture undertakings fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims to foster animal health and welfare in aquaculture undertakings, inter alia, in terms of prevention and bio-security; and
  - (b) the aid may only cover one of the following measures:
    - (i) the development of general and species-specific best practices or codes of conduct on bio-security or on animal health and animal welfare needs in aquaculture;
    - (ii) initiatives aimed at reducing the dependence of aquaculture on veterinary medicine;

<sup>(35)</sup> Commission Implementing Regulation (EU) 2019/627 of 15 March 2019 laying down uniform practical arrangements for the performance of official controls on products of animal origin intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council and amending Commission Regulation (EC) No 2074/2005 as regards official controls (OJ L 131, 17.5.2019, p. 51).

<sup>(36)</sup> Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

- (iii) veterinary or pharmaceutical studies and dissemination and exchange of information and best practices regarding veterinary diseases in aquaculture, with the aim of promoting an appropriate use of veterinary medicine;
- (iv) the establishment and operation of health protection groups in the aquaculture sector as recognised by Member States; or
- (v) compensation to mollusc farmers for the temporary suspension of their activities due to exceptional mass mortality, if the yearly mortality rate exceeds 20 %, or if the loss resulting from the suspension of the activity amounts to more than 30 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the three calendar years preceding the year in which the activities were suspended.

For the purposes of point (b), Member States may establish special calculation rules in respect of companies with less than three years of activity.

The aid referred in point (b)(iii) shall not cover the purchase of veterinary medicines.

The results of the studies financed under point (b)(iii), shall be adequately reported and publicised by the Member State.

2. The aid shall take the form of a subsidised service or direct grant.
3. For the purposes of point (b)(i) to (iv) in paragraph 1, the eligible costs are the direct additional costs incurred as a result of measures concerned. For the purposes of point (b)(v) in paragraph 1, the eligible costs are the direct additional costs incurred and/or income foregone as a result of measures concerned.
4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### Article 42

##### **Aid for prevention, control and eradication of diseases**

1. Aid for prevention, control and eradication of diseases in aquaculture undertakings fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports the costs of prevention, control and eradication of:

- (a) diseases in aquaculture listed in Article 5(1) of Regulation (EU) 2016/429, or included in the list of animal diseases of the Aquatic Animal Health Code of the World Organisation for Animal Health, including the operational costs necessary to fulfil the obligations in an eradication plan;
- (b) emerging diseases that meet the criteria laid down in Article 6(2) of Regulation (EU) 2016/429;
- (c) zoonoses of aquatic animals listed in Annex III, point 2, to Regulation (EU) 2021/690 of the European Parliament and of the Council <sup>(37)</sup>; or
- (d) diseases other than a listed disease referred to in Article 9(1), point (d), of Regulation (EU) 2016/429 that meet the criteria laid down in Article 226 of that Regulation.

2. The aid shall be paid only in relation to diseases of aquatic animals for which Union or national rules exist, whether laid down by law, regulation or administrative action.

3. The aid may only cover the following eligible costs for preventive, control and eradication purposes:

- (a) health checks, analyses, tests, and other screening measures;
- (b) the improvement of biosecurity measures;

<sup>(37)</sup> 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).



- (c) the purchase, storage, administration or distribution of vaccines, medicines, and substances for the treatment of animals;
  - (d) the slaughtering, culling, and destruction of animals;
  - (e) the destruction of animal products and of products linked to them;
  - (f) the cleaning, disinfection or disinfestation of the holding and equipment; or
  - (g) the damage incurred due to the slaughtering, culling or destruction of animals, animal products, and products linked to them.
4. The aid shall not relate to measures the cost of which Union legislation requires to be borne by the beneficiary, unless the cost of such measures is entirely offset by compulsory charges on the beneficiaries.
5. Aid schemes related to an animal disease shall be introduced within three years and the aid paid out within four years from the date of the occurrence of the cost or damage caused by the animal disease.
6. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### Article 43

##### **Aid for investment to prevent and mitigate the damage caused by animal disease**

1. Aid for investment to prevent and mitigate the damage caused by animal diseases in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the investment primarily pursues the aim of preventing or mitigating of damage caused by animal diseases under Article 42 (1), point (a), of this Regulation.
2. The aid may only cover the eligible costs that are direct and specific for preventive measures. The costs may only include the costs:
- (a) for the construction, acquisition, including leasing, or improvement of immovable property; or
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset.
3. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 65 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 44

##### **Aid for aquaculture stock insurance**

1. Aid for aquaculture stock insurance fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
- (a) the aid promotes to safeguard the income of aquaculture producers; and
  - (b) the aid contributes to an aquaculture stock insurance covering economic losses due to at least one of the following:
    - (i) natural disasters;
    - (ii) adverse climatic events;
    - (iii) sudden water quality and quantity changes for which the operator is not responsible;
    - (iv) diseases in aquaculture, failure or destruction of production facilities for which the operator is not responsible;
    - (v) public health crises;

- (vi) loss of production due to attack by protected or predatory animals;
  - (vii) the insurance shall not require or specify the type or quantity of future production and the aid is not limited to insurance provided by a specific insurance company or group of companies.
2. The occurrence of the circumstances referred to in paragraph 1, points (b)(i), (ii) and (v), in aquaculture shall be formally recognised as such by the Member State concerned.
3. Member States may, where appropriate, establish criteria in advance on the basis of which the formal recognition referred to in paragraph 2 shall be deemed to be granted.
4. The contributions referred to in paragraph 1, point (b), shall relate to the covering the costs for up to 70 % of a premium for a contract covering up to 100 % of the potential economic loss.

### Section 3

## Marketing and processing related measures

### Article 45

#### Aid for marketing measures

1. Aid for marketing measures fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
- (a) the aid promotes marketing measures for fishery and aquaculture products; and
  - (b) the aid aims to:
    - (i) create producer organisations, associations of producer organisations or inter-branch organisations to be recognised in accordance with Chapter II, Section II, of Regulation (EU) No 1379/2013;
    - (ii) find new markets and improving the conditions for the placing on the market of fishery and aquaculture products, including:
      - species with marketing potential,
      - unwanted catches landed from commercial stocks in accordance with technical measures, Article 15 of Regulation (EU) No 1380/2013 and Article 8(2), point (b), of Regulation (EU) No 1379/2013;
      - fishery and aquaculture products obtained using methods with low impact on the environment, or organic aquaculture products within the meaning of Regulation (EU) 2018/848;
    - (iii) promote the quality and the value added by facilitating:
      - the application for registration of a given product and the adaptation of concerned operators to the relevant compliance and certification requirements in accordance with Regulation (EU) No 1151/2012 of the European Parliament and of the Council <sup>(38)</sup>,
      - the certification and the promotion of sustainable fishery and aquaculture products, including products from small-scale coastal fishing, and of environmentally-friendly processing methods,
      - the direct marketing of fishery products by small-scale coastal fishermen, migratory fishers, inland fishermen, on-foot fishers or aquaculture producers,
      - the presentation and packaging of products;
    - (iv) contribute to the transparency of production and the markets and conducting market surveys and studies on the Union's dependence on imports;
    - (v) contribute to the traceability of fishery or aquaculture products and, where relevant, the development of a Union-wide ecolabel for fishery and aquaculture products referred to in Regulation (EU) No 1379/2013;

<sup>(38)</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

- (vi) draw up standard contracts for SMEs that are compatible with Union law;
  - (vii) conduct regional, national or transnational communication and promotional campaigns to raise public awareness of sustainable fishery and aquaculture products.
2. The aid shall take the form of a subsidised service or direct grant.
3. The aid may only cover the following eligible costs:
- (a) direct salary costs
  - (b) participation fees;
  - (c) travel costs;
  - (d) costs of publications;
  - (e) purchased studies;
  - (f) the rent of exhibition premises and stands and the costs of their installation and dismantling; or
  - (g) costs for the dissemination of scientific knowledge and factual information on generic fishery products and their nutritional benefits and suggested uses for them.
4. The operations referred to in paragraph 1, point (b), may include the production, processing and marketing activities along the supply chain. The operations referred to in paragraph 1, point (b)(vii), shall not refer to any particular undertaking, brand name or origin.
5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 46

##### **Aid for the processing of fishery and aquaculture products**

1. Aid for processing of fishery and aquaculture products fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports investments in the processing of fishery and aquaculture products and the aid aims to support measures that:
- (a) contribute to energy saving or reducing the impact on the environment, including waste treatment;
  - (b) improve safety, hygiene, health and working conditions;
  - (c) support the processing of catches of commercial fish that cannot be destined for human consumption;
  - (d) relate to the processing of by-products resulting from main processing activities;
  - (e) relate to the processing of organic aquaculture products pursuant to Articles 7 and 8 of Regulation (EU) 2018/848;
  - (f) lead to new or improved products, new or improved processes, or new or improved management and organisation systems;
  - (g) comply with the conditions for the costs of prevention, control and eradication of the diseases referred to in Article 42(1), point (a); or
  - (h) comply with the conditions of the preventing and mitigating investments under the condition of Article 43.

2. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. The amount of the aid granted for prevention, control and eradication of the diseases under paragraph 1, point (g), of this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs. Aid for investment to prevent and mitigate the damage under paragraph 1, point (h), of this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 65 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Section 4

### Other categories of aid

#### Article 47

#### **Aid for collection, management, use and processing of data in the fisheries sector**

1. Aid for collection, management, use and processing of biological, environmental, technical and socio-economic data in the fisheries sector fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports the collection, management and use of data, as provided for in Article 25(1) and (2) of Regulation (EU) No 1380/2013 and further specified in Regulation (EU) 2017/1004 of the European Parliament and of the Council <sup>(39)</sup>.

2. The aid may only cover the following measures:

- (a) the collection, management and use of data for the purpose of scientific analysis and implementation of the CFP;
- (b) national, transnational and subnational multiannual sampling programmes, provided that they relate to stocks covered by the CFP;
- (c) at-sea monitoring of commercial and recreational fisheries, including monitoring of by-catch of marine organisms such as marine mammals and birds;
- (d) research surveys at sea; or
- (e) the improvement of data collection and data management systems and the implementation of pilot studies to improve existing data collection and data management systems.

3. The aid may only cover the following eligible costs incurred directly as a result of the supported measures.

- (a) direct salary costs
- (b) participation fees;
- (c) travel costs;
- (d) costs of publications;
- (e) investments in data collection and data management systems;
- (f) purchased data collection services.

4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### Article 48

#### **Aid to prevent and mitigate the damage caused by natural disasters**

1. Aid to prevent and mitigate the damage caused by natural disasters fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the investment primarily pursues the aim of preventing or mitigating damage caused by natural disasters.

<sup>(39)</sup> Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy and repealing Council Regulation (EC) No 199/2008 (OJ L 157, 20.6.2017, p. 1).

2. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.

3. The aid may only cover the eligible costs that are direct and specific for preventive measures. The costs may only include the following costs:

(a) for the construction, acquisition, including leasing, or improvement of immovable property;

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

4. The amount of the aid granted shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 65 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 49

#### **Aid to make good the damage caused by natural disasters**

1. Aid to make good the damage caused by natural disasters fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(2), point (b), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

(a) the competent authority of the Member State has formally recognised the character of the event as a natural disaster; and

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

2. Member States may, where appropriate, establish criteria in advance on the basis of which the formal recognition referred to in paragraph (1), point (a) of this Article is deemed to be granted.

3. Aid shall 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 shall not exceed the amount of aid to which that undertaking is eligible.

4. Aid schemes related to a specific natural disaster shall be established within three years from the date of the occurrence of the natural disaster. The aid shall be paid out within four years from that date.

5. The eligible costs may be the damage incurred as a direct consequence of the natural disaster, as assessed either by a competent public authority, by an independent expert recognised by the granting authority or by an insurance undertaking. That damage may include the following:

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

(b) loss of income due to the full or partial destruction of fishery or aquaculture production or the means of such production not exceeding six months from the occurrence of the disaster.

6. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the disaster. It shall not exceed the repair cost or the decrease in fair market value caused by the natural disaster, namely the difference between the asset's value immediately before and immediately after the disaster.

7. The loss of income shall be calculated by subtracting:

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

8. The damage shall be calculated at the level of the individual undertaking. Where an SME was set up less than three years from the date of the occurrence of the event, the reference to the three-year periods in paragraph 7, point (b), shall be understood as referring to the turnover generated or quantity of fishery and aquaculture products produced and sold by an average undertaking of the same size as the applicant, namely a micro enterprise or a small enterprise or a medium enterprise, respectively, in the national or regional sector affected by the adverse climatic event which can be assimilated to a natural disaster.

9. The aid granted and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

#### Article 50

#### **Aid to prevent and mitigate the damage caused by adverse climatic events which can be assimilated to a natural disaster**

1. Aid for investments to prevent and mitigate the damage caused by adverse climatic events which can be assimilated to natural disasters, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that it fulfils the conditions laid down in this Article.

2. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.

3. The aid may only cover the eligible costs that are direct and specific for preventive measures. The costs may include the costs for one of the following:

(a) for the construction, acquisition, including leasing, or improvement of immovable property;

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

4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 65 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 51

#### **Aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster**

1. Aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that it fulfils the conditions laid down in this Article.

2. Aid fulfils the following conditions:

(a) the competent authority of the Member State has formally recognised the character of the adverse climatic event which can be assimilated to a natural disaster; and

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

3. Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to in paragraph (2)(a) of this Article is deemed to be granted.

4. The aid shall be paid directly to the undertaking concerned.

5. Aid schemes shall 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 shall be paid out within four years from that date.

6. The eligible costs may be 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. That damage may include the following:

- (a) material damage to assets such as buildings, equipment, machinery, stocks and means of production; or
- (b) loss of income due to the full or partial destruction of fishery or aquaculture production or the means of such production for a period not exceeding six months from the occurrence of the adverse climatic event which can be assimilated to a natural disaster.

7. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the adverse climatic event which can be assimilated to a natural disaster. It shall 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, namely the difference between the asset's value immediately before and immediately after the adverse climatic event which can be assimilated to a natural disaster.

8. The loss of income shall be calculated by subtracting:

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

9. The damage shall be calculated at the level of the individual undertaking. Where an SME was set up less than three years from the date of the occurrence of the event, the reference to the three-year periods in paragraph 7, point (b), shall be understood as referring to the turnover generated or quantity of fishery and aquaculture products produced and sold by an average undertaking of the same size as the applicant, namely a micro enterprise or a small enterprise or a medium enterprise, respectively, in the national or regional sector affected by the adverse climatic event which can be assimilated to a natural disaster.

10. The aid granted and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

#### *Article 52*

#### **Aid to prevent and mitigate the damage caused by protected animals**

1. Aid for investments to prevent and mitigate the damage caused by behaviour of the protected animals in fishery and aquaculture sector, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the investment primarily pursues the aim of preventing or mitigating damage caused by behaviour of the protected animals;
- (b) concerning fisheries, the objective of the investment is to prevent and mitigate depredation or to prevent and mitigate damage to fishing gear or other operating material caused by the behaviour of a protected animal.

2. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.

3. The aid may only cover the eligible costs that are direct and specific for preventive measures. The costs may include one of the following costs:

- (a) for the construction, acquisition, including leasing, or improvement of immovable property;
- (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset.

4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### Article 53

##### **Aid to make good the damage caused by protected animals**

1. Aid to make good the damage caused by protected animals in fishery and aquaculture sector fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) there is a direct causal link between the damage suffered and the behaviour of the protected animals;
- (b) the eligible costs shall be the costs of the damage incurred as a direct consequence of the event that caused the damage, as assessed either by a public authority, by an independent expert recognised by the granting authority or by an insurance undertaking; and
- (c) for fisheries, aid with regard to damage for animals is limited to damage to catches.

2. The damage to be made good may include the following:

- (a) damage for animals in aquaculture: the eligible costs are based on the market value of the animal damaged or killed by the protected animals;
- (b) damage to catches in fishery sector caused by protected animals; or
- (c) the material damage to the following assets: equipment, machinery, property.

3. The market value referred to in paragraph 2 of this Article shall be established on the basis of the value of the animals immediately before the damage caused by the behaviour of the protected animals occurred, and as if they had not been affected by the behaviour of the protected animals.

4. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the damage occurred. It must not exceed the repair cost or the decrease in fair market value caused by the protected animals, that is to say the difference between the asset's value immediately before and immediately after the damage occurred.

5. The damage to be made good may be increased by other costs incurred by the beneficiary undertaking due to the behaviour of the protected animals, and it shall be reduced by any costs not directly incurred due to the behaviour of the protected animals which would otherwise have been incurred by the beneficiary undertaking, and by any revenue made by the sale of products linked to the animals damaged or killed.

6. Save for first attacks by protected animals, a reasonable effort from the beneficiary undertaking is required to mitigate the risk of distortions of competition and to provide an incentive for minimising the risk. This effort shall take the form of preventive measures, such as safety fences, which are proportionate to the risk of damage caused by behaviour of the protected animals in the area concerned, unless such measures are not reasonably possible.



7. Aid shall 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 shall not exceed the amount of aid to which that undertaking is eligible.
8. The aid scheme shall be established within a period of three years from the date of the occurrence of the damaging event. The aid shall be paid out within four years from that date.
9. The aid granted and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

#### Article 54

#### Aid for CLLD projects

1. Aid for costs incurred by SMEs participating in CLLD projects under the Regulation (EU) 2021/1139, shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) TFEU, provided that it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. Aid for costs incurred by municipalities participating in CLLD projects, referred to in Article 31 of Regulation (EU) 2021/1060 and designated as LEADER local development under the European Maritime, Fisheries and Aquaculture Fund in favour of projects referred to in paragraph 3 of this Article, shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) TFEU, provided the conditions laid down in this Article and in Chapter I of this Regulation are fulfilled.
3. The following costs shall be eligible for CLLD projects:
  - (a) the costs of preparatory support, capacity building, training and networking with a view of preparing and implementing a CLLD strategy referred in Article 33 of Regulation (EU) 1303/2013 of the European Parliament and of the Council <sup>(40)</sup>;
  - (b) implementation of approved operations;
  - (c) preparation and implementation of the group's cooperation activities;
  - (d) running costs linked to the management of the implementation of the CLLD strategy; or
  - (e) animation of the CLLD strategy in order to facilitate exchange between stakeholders to provide information and to promote the strategy and the projects, and to support potential beneficiaries with a view of developing operations and preparing applications.
4. The costs incurred by municipalities participating in CLLD projects, referred to in paragraph 1, may only be eligible for aid under this Article provided that they are pursued in one of the following areas:
  - (a) research, development and innovation;
  - (b) environment;
  - (c) employment and training;
  - (d) culture and heritage conservation;
  - (e) conservation of marine and freshwater biological resources;
  - (f) promotion of food products not listed in Annex I to the TFEU;
  - (g) sports.
5. The aid intensity shall not exceed the maximum support rates provided for each type of operation in Regulation (EU) 2021/1139.

<sup>(40)</sup> Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

*Article 55***Limited amounts of aid for CLLD projects**

1. Aid to undertakings participating in, or benefitting from, CLLD projects as referred to in Article 54(1) of this Regulation, shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) TFEU, provided the conditions laid down in this Article and in Chapter I of this Regulation are fulfilled.
2. Aid to municipalities participating in, or benefitting from CLLD projects as referred to in Article 54(1) of this Regulation, shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
3. The costs incurred by municipalities participating in CLLD projects, referred to in paragraph 1 of this Article, may only be eligible for aid under this Article provided that they are pursued in one of the following areas:
  - (a) research, development and innovation;
  - (b) environment;
  - (c) employment and training;
  - (d) culture and heritage conservation;
  - (e) conservation of marine and freshwater biological resources;
  - (f) promotion of food products not listed in Annex I to the TFEU;
  - (g) sports.
4. The total amount of aid under this Article granted per project shall not exceed EUR 200 000.

*Article 56***Tax exemptions and reductions in accordance with Directive 2003/96/EC.**

1. Aid in the form of tax exemptions or reductions adopted by Member States pursuant to Article 15(1), point (f) and Article 15(3) of Directive 2003/96/EC shall be compatible with the internal market within the meaning of Article 107(3), point (c) and exempt from the notification requirement of Article 108(3) of TFEU, provided that the conditions laid down in Directive 2003/96/EC and in Chapter I of this Regulation are fulfilled.
2. The beneficiary undertaking of the tax exemptions or reductions shall be selected on the basis of transparent and objective criteria. Where applicable, they shall pay at least the respective minimum level of taxation set by Directive 2003/96/EC.

*CHAPTER IV****Transitional and final provisions****Article 57***Continued application of Regulation (EU) No 1388/2014**

Article 47 of Commission Regulation (EU) No 1388/2014 <sup>(41)</sup> states that that regulation shall apply until 31 December 2022. The present Regulation will replace Regulation (EU) No 1388/2014 upon its expiry.

*Article 58***Transitional provisions**

1. This Regulation shall apply to individual aid granted before its entry into force, if the aid fulfils all the conditions laid down in this Regulation, with the exception of Article 9.

<sup>(41)</sup> Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 369, 24.12.2014, p. 37).

2. Any aid not exempted from the notification requirement of Article 108(3) TFEU under this Regulation or other regulations adopted pursuant to Article 1 of Regulation (EU) 2015/1588 previously in force shall be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.

3. Any individual aid granted before 1 January 2023 under any regulation adopted pursuant to Article 1 of Regulation (EU) 2015/1588 previously in force at the time of granting the aid shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) TFEU.

4. At the end of the period of validity of this Regulation, any aid schemes exempted under this Regulation shall remain exempted during an adjustment period of six months.

*Article 59*

**Entry into force and applicability**

This Regulation shall enter into force on 1 January 2023.

It shall apply from 1 January 2023 to 31 December 2029.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 December 2022.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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## ANNEX I

**Small and medium-sized enterprises (SMEs)**1. *Enterprise*

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

2. *Staff headcount and financial thresholds determining enterprise categories*

2.1. The category of micro, small and medium-sized enterprises ('SMEs') is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

2.2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.

2.3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

3. *Types of enterprise taken into consideration in calculating staff numbers and financial amounts*

3.1. An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of point 3.2 or as a linked enterprise within the meaning of point 3.3.

3.2. 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of point 3.3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of point 3.3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

(a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000;

(b) universities or non-profit research centres;

(c) institutional investors, including regional development funds;

(d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.

3.3. 'Linked enterprises' are enterprises which have any of the following relationships with each other:

(a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;

(b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;

(c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;

- (d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of point 3.2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors referred to in point 3.2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

- 3.4. Except in the cases set out in point 3.2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.
- 3.5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in point 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

#### 4. *Data used for the staff headcount and the financial amounts and reference period*

- 4.1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
- 4.2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in point 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.
- 4.3. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

#### 5. *Staff headcount*

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- (c) owner-managers;
- (d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

6. *Establishing the data of an enterprise*

- 6.1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.
- 6.2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

6.3 For the application of point 6.2:

- (a) the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation;
- (b) the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of point 6.2.

- 6.4 Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.
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ANNEX II

**Information regarding State aid exempt under the conditions of this Regulation**

PART I

to be provided through the established Commission electronic notification system as laid down in Article 11

Aid reference	<i>(to be completed by the Commission)</i>		
Member State			
Member State reference number			
Region	Name of the Region(s) (NUTS <sup>(1)</sup> ) .....	<input type="checkbox"/> Outermost regions <input type="checkbox"/> Remote Greek islands <input type="checkbox"/> Croatian islands of Dugi Otok, Vis, Mljet and Lastovo <input type="checkbox"/> Other	
Granting authority	Name		
	Postal address		
	Web address		
Title of the aid measure			
National legal basis (Reference to the relevant national official publication)			
Web link to the full text of the aid measure			
Type of measure	<input type="checkbox"/> Scheme		
	<input type="checkbox"/> Ad hoc aid	Name of the beneficiary and the group <sup>(2)</sup> it belongs to	
Amendment of an existing aid scheme or ad hoc aid			Commission aid reference
	<input type="checkbox"/> Prolongation		
	<input type="checkbox"/> Modification		

Duration <sup>(3)</sup>	<input type="checkbox"/> Scheme	dd/mm/yyyy to dd/mm/yyyy
Date of granting	<input type="checkbox"/> Ad hoc aid	dd/mm/yyyy
Economic sector(s) concerned	<input type="checkbox"/> All economic sectors eligible to receive aid	
	<input type="checkbox"/> Limited to certain sectors: Please specify at NACE group level <sup>(4)</sup>	
Type of beneficiary	<input type="checkbox"/> SME	
	<input type="checkbox"/> Large undertakings	
Budget	Total annual amount of the budget planned under the scheme <sup>(5)</sup>	National currency ..... (full amounts)
	Overall amount of the ad hoc aid awarded to the undertaking <sup>(6)</sup>	National currency ..... (full amounts)
	<input type="checkbox"/> For guarantees <sup>(7)</sup>	National currency ..... (full amounts)
Aid instrument	<input type="checkbox"/> Grant/Interest rate subsidy	
	<input type="checkbox"/> Subsidised services	
	<input type="checkbox"/> Loan/Repayable advances	
	<input type="checkbox"/> Guarantee (where appropriate with a reference to the Commission decision <sup>(8)</sup> )	
	<input type="checkbox"/> Tax advantage or tax exemption	
	<input type="checkbox"/> Other (please specify)	
	Indicate to which broad category below it would fit best in terms of its effect/function: <input type="checkbox"/> Grant <input type="checkbox"/> Subsidised services <input type="checkbox"/> Loan <input type="checkbox"/> Guarantee <input type="checkbox"/> Tax advantage	



If co-financed by EU fund(s)	Name of EU fund (s):	Amount of funding (as per EU fund)	National currency (full amounts)

<sup>(1)</sup> NUTS – Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.  
<sup>(2)</sup> An undertaking for the purposes of rules on competition laid down in the Treaty and for the purposes of this Regulation is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed. The Court of Justice has ruled that entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as one undertaking  
<sup>(3)</sup> Period during which the granting authority can commit itself to grant the aid.  
<sup>(4)</sup> NACE Rev. 2 – Statistical classification of Economic Activities in the European Union. Typically, the sector shall be specified at group level.  
<sup>(5)</sup> In case of aid scheme: Indicate the annual overall amount of the budget planned under the scheme or the estimated tax loss per year for all aid instruments contained in the scheme.  
<sup>(6)</sup> In case of an ad hoc aid award: Indicate the overall aid amount/tax loss.  
<sup>(7)</sup> For guarantees, indicate the (maximum) amount of loans guaranteed.  
<sup>(8)</sup> Where appropriate, reference to the Commission decision approving the methodology to calculate the gross grant equivalent, in accordance with Article 5(2)(c).

## PART II

**to be provided through the established Commission electronic notification system as laid down in Article 11**

Please indicate under which provision of the FIBER the aid measure is implemented.

<input type="checkbox"/> Aid for innovation in fisheries (Article 15)
<input type="checkbox"/> Aid for advisory services (Article 16)
<input type="checkbox"/> Aid for partnership between scientists and fishers (Article 17)
<input type="checkbox"/> Aid to promote human capital and social dialogue (Article 18)
<input type="checkbox"/> Aid to facilitate diversification and new forms of income (Article 19)
<input type="checkbox"/> Aid to first acquisition of a fishing vessel (Article 20)
<input type="checkbox"/> Aid to improve health, safety and working conditions for fishers (Article 21)
<input type="checkbox"/> Aid for the payment of insurance premiums and for financial contributions to mutual funds (Article 22)
<input type="checkbox"/> Aid to support systems of allocation of fishing opportunities (Article 23)
<input type="checkbox"/> Aid to limit the impact of fishing on the environment and adapt fishing to the protection of species (Article 24)
<input type="checkbox"/> Aid for innovation linked to the conservation of marine biological resources (Article 25)
<input type="checkbox"/> Aid for the protection and restoration of marine biodiversity and ecosystems and regimes in the framework of sustainable fishing activities (Article 26)
<input type="checkbox"/> Aid to improve energy efficiency and to mitigate the effects of climate change (Article 27)
<input type="checkbox"/> Aid for added value, product quality and use of unwanted catches (Article 28)

<input type="checkbox"/> Aid for fishing ports, landing sites, auction halls and shelters (Article 29)		
<input type="checkbox"/> Aid for inland fishing and inland aquatic fauna and flora (Article 30)		
<input type="checkbox"/> Aid for innovation in aquaculture (Article 32)		
<input type="checkbox"/> Aid for investments increasing productivity or positively impacting the environment in aquaculture (Article 33)		
<input type="checkbox"/> Aid for the management, relief and advisory services for aquaculture farms (Article 34)		
<input type="checkbox"/> Aid to promote human capital and networking in aquaculture (Article 35)		
<input type="checkbox"/> Aid to increase the potential of aquaculture sites (Article 36)		
<input type="checkbox"/> Aid to encourage new aquaculture entrepreneurs practising sustainable aquaculture (Article 37)		
<input type="checkbox"/> Aid for the conversion to eco-management and audit schemes and organic aquaculture (Article 38)		
<input type="checkbox"/> Aid for environmental services (Article 39)		
<input type="checkbox"/> Aid for public health measures (Article 40)		
<input type="checkbox"/> Aid for animal health and welfare measures (Article 41)		
<input type="checkbox"/> Aid for prevention, control and eradication of diseases (Article 42)		
<input type="checkbox"/> Aid for investment to prevent and mitigate the damage caused by animal disease (Article 43)		
<input type="checkbox"/> Aid for aquaculture stock insurance (Article 44)		
<input type="checkbox"/> Aid for marketing measures (Article 45)		
<input type="checkbox"/> Aid for the processing of fishery and aquaculture products (Article 46)		
<input type="checkbox"/> Aid for collection, management, use and processing of data in the fisheries sector (Article 47)		
<input type="checkbox"/> Aid to prevent and mitigate the damage caused by natural disasters (Article 48)		
<input type="checkbox"/> Aid to make good the damage caused by natural disasters (Article 49)	Type of natural disaster:	<input type="checkbox"/> earthquake <input type="checkbox"/> avalanche <input type="checkbox"/> landslide <input type="checkbox"/> flood <input type="checkbox"/> tornado <input type="checkbox"/> hurricane <input type="checkbox"/> volcanic eruption <input type="checkbox"/> wild fire <input type="checkbox"/> other Please specify: ....
	Date of occurrence of the natural disaster	dd/mm/yyyy to dd/mm/yyyy

<input type="checkbox"/> Aid to prevent and mitigate the damage caused by adverse climatic events which can be assimilated to a natural disaster (Article 50)		
<input type="checkbox"/> Aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster (Article 51)	Type of the event:	<input type="checkbox"/> frost <input type="checkbox"/> storms <input type="checkbox"/> hail <input type="checkbox"/> heavy or persistent rainfall <input type="checkbox"/> severe droughts <input type="checkbox"/> other Please specify: .....
	Date of the event:	dd/mm/yyyy to dd/mm/yyyy
<input type="checkbox"/> Aid to prevent and mitigate the damage caused by protected animals (Article 52)		
<input type="checkbox"/> Aid to make good the damage caused by protected animals (Article 53)		
<input type="checkbox"/> Aid for CLLD projects (Article 54)		
<input type="checkbox"/> Limited amounts of aid for CLLD projects (Article 55)		
<input type="checkbox"/> Tax exemptions and reductions in accordance with Directive 2003/96/EC (Article 56)		
Motivation	Indicate why a State aid scheme has been established or an ad-hoc aid has been granted, instead of assistance under the European Maritime, Fisheries and Aquaculture Fund (EMFAF): <input type="checkbox"/> measure not covered by the national operational programme; <input type="checkbox"/> prioritisation in the allocation of funds under the national operational programme; <input type="checkbox"/> funding no longer available under the EMFAF <input type="checkbox"/> other Please specify: .....	

## ANNEX III

**Provisions for the publication of information referred to in Article 9(1)**

Member States shall organise their comprehensive State aid websites, on which the information referred to in Article 9(1) is to be published, in a way to allow easy access to the information.

Information shall be published in a spreadsheet data format, which allows data to be searched, extracted and easily published on the Internet, for instance in CSV or XML format. Access to the website shall be allowed to any interested party without restrictions. No prior user registration shall be required to access the website.

The following information on individual aid awards referred to in Article 9(1), point (c), shall be published <sup>(1)</sup>:

- Name of the beneficiary,
- Beneficiary's identifier,
- Type of enterprise (SME/large) at the date of granting,
- Region in which the beneficiary is located, at NUTS level II <sup>(2)</sup>,
- Sector of activity at NACE group level <sup>(3)</sup>,
- Aid element, expressed as full amount in national currency <sup>(4)</sup>,
- Aid instrument <sup>(5)</sup> (grant/interest rate subsidy, loan/repayable advances/reimbursable grant, guarantee, tax advantage or tax exemption, other (please specify)),
- Date of granting,
- Objective of the aid,
- Granting authority,
- Reference of the aid measure <sup>(6)</sup>.

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<sup>(1)</sup> Considering the legitimate interest in transparency to provide information to the public, in weighting up the needs of transparency with the rights under the data protection rules, the Commission concludes that the publication of the name of the aid beneficiary when the aid beneficiary is a natural person or a legal persons which have names of natural persons, is justified (see C-92/09, Volker und Markus Schecke and Eifert, paragraph 53), taking into account Article 49(1)(g) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC. Transparency rules aim to a better compliance, greater accountability, peer review and ultimately more effective public spending. This aim shall prevail over the data protection rights of natural persons receiving public support

<sup>(2)</sup> NUTS – Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.

<sup>(3)</sup> Council Regulation (EEC) No 3037/90 of 9 October 1990 on statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1).

<sup>(4)</sup> Gross grant equivalent. For fiscal schemes, this amount can be provided by the ranges set out in Article 9(2).

<sup>(5)</sup> If the aid is granted through multiple aid instruments, the aid amount shall be provided by instrument.

<sup>(6)</sup> As provided by the Commission under the electronic procedure referred to in Article 11 of this Regulation

## ANNEX IV

**Specific maximum aid intensity rates**

Row	Specific category of operation	Maximum aid intensity rate
1	<p>The following operations contributing to the implementation of the landing obligation referred to in Article 15 of Regulation (EU) No 1380/2013</p> <ul style="list-style-type: none"> <li>— operations improving size selectivity or species selectivity of fishing gear,</li> <li>— operations improving the infrastructure of fishing ports, auction halls, landing sites and shelters in order to facilitate the landing and storage of unwanted catches,</li> <li>— operations facilitating the marketing of unwanted catches landed from commercial stocks, in accordance with point (b) of Article 8(2) of Regulation (EU) No 1379/2013.</li> </ul>	<p>100 %</p> <p>75 %</p> <p>75 %</p>
2	Operations aimed at improving the health, safety and working conditions on board fishing vessels	75 %
3	Operations located in the outermost regions	85 %
4	Operations located in Greek islands which according to national law have been qualified as remote and in the Croatian islands of Dugi Otok, Vis, Mljet and Lastovo	85 %
5	Operations related to small-scale coastal fishing	100 %
6	<p>Operations which fulfil all of the following criteria:</p> <ul style="list-style-type: none"> <li>(i) they are of collective interest;</li> <li>(ii) they have a collective beneficiary;</li> <li>(iii) they have innovative features or ensure public access to their results</li> </ul>	100 %
7	Operations implemented by producer organisations, associations of producer organisations or interbranch organisations	75 %
8	Operations supporting sustainable aquaculture	60 %
9	Operations supporting innovative products, processes or equipment in fisheries, aquaculture and processing based on Article 15, Article 25, Article 28, Article 30, Article 32, Article 33 and Article 36.	75 %
10	Operations implemented by organisations of fishers or other collective beneficiaries	60 %
11	Financial instruments	100 %





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