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COMMISSION REGULATION (EC) No 1857/2006

of 15 December 2006

on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001

(OJ L 358, 16.12.2006, p. 3)

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on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid [1], and in particular Article 1(1)(a)(i) thereof,

Having published a draft of this Regulation,

Having consulted the Advisory Committee on State Aid,

Whereas:

(1) Regulation (EC) No 994/98 empowers the Commission to declare, in accordance with Article 87 of the Treaty, that, under certain conditions, aid to small and medium-sized enterprises is compatible with the common market and not subject to the notification requirement of Article 88(3) of the Treaty.

(2) Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises [2] does not apply to activities linked to the production, processing or marketing of products listed in Annex I to the Treaty.

(3) The Commission has applied Articles 87 and 88 of the Treaty to small and medium-sized enterprises active in the production, processing and marketing of agricultural products in numerous decisions and has also stated its policy, most recently in the Community guidelines for State aid in the agriculture sector [3]. In the light of the Commission's considerable experience in applying those Articles to small and medium-sized enterprises active in the production of agricultural products, it is appropriate, with a view to ensuring efficient supervision and simplifying administration without weakening Commission monitoring, that the Commission should also make use of the powers conferred by Regulation (EC) No 994/98 for small and medium-sized enterprises active in the production of agricultural products, insofar as Article 89 of the Treaty has been declared applicable to such products.

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[1] OJ L 142, 14.5.1998, p. 1.
[2] OJ L 10, 13.1.2001, p. 33. Regulation as last amended by Regulation (EC) No 1040/2006 (OJ L 187, 8.7.2006, p. 8).
[3] OJ C 28, 1.2.2000, p. 2. Corrected version (OJ C 232, 12.8.2000, p. 17).

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(4) Over the coming years, agriculture will have to adapt to new realities and further changes in terms of market evolution, market policy and trade rules, consumer demand and preferences and the enlargement of the Community. These changes will affect not only agricultural markets but also local economies in rural areas in general. Rural development policy should aim at restoring and enhancing the competitiveness of rural areas and, therefore, contribute to the maintenance and creation of employment in those areas.

(5) Small and medium-sized enterprises play a decisive role in job creation and, more generally, act as a factor of social stability and economic drive. However, their development may be limited by market imperfections. They often have difficulties in obtaining capital or credit, given the risk-shy nature of certain financial markets and the limited guarantees that they may be able to offer. Their limited resources may also restrict their access to information, notably regarding new technology and potential markets. Having regard to those considerations, the purpose of the aid exempted by this Regulation should be to facilitate the development of the economic activities of small and medium-sized enterprises, provided that such aid does not adversely affect trading conditions to an extent contrary to the common interest. These developments should be encouraged and supported by simplification of the existing rules, as far as they apply to small and medium-sized enterprises.

(6) The production, processing and marketing of agricultural products in the Community is largely dominated by small and medium-sized enterprises. However, there are considerable differences between the structure of primary production, on the one hand, and processing and marketing of agricultural products, on the other hand. The processing and marketing of agricultural products would often appear similar to that of industrial products. Therefore, it would appear more appropriate to have a different approach for processing and marketing of agricultural products and include those activities in the rules for industrial products. Consequently, and contrary to the approach taken in Commission Regulation (EC) No 1/2004 of 23 December 2003 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of agricultural products [1], it appears useful to set up an exemption regulation targeted at the specific needs of primary agricultural production.

(7) Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and

[1] OJ L 1, 3.1.2004, p. 1.

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repealing certain Regulations ([1]) and Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ([2]) have introduced specific State aid rules for certain rural development measures receiving Member State support without any Community financing.

(8) This Regulation should exempt any aid that meets all the requirements it lays down, and any aid scheme, provided that any aid that could be granted under such scheme meets all the requirements of this Regulation. With a view to ensuring efficient supervision and simplifying administration without weakening Commission monitoring, aid schemes and individual grants outside any aid scheme should contain an express reference to this Regulation.

(9) 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, it should not exempt individual grants which exceed a fixed maximum amount, whether or not made under an aid scheme exempted by this Regulation.

(10) This Regulation should not exempt export aid or aid contingent upon the use of domestic over imported products. Such aid may be incompatible with the Community's international obligations. Aid towards the costs of participation in trade fairs or of studies or consultancy services needed for the launch of a new or existing product on a new market should not normally constitute export aid.

(11) In order to eliminate differences that might give rise to distortions of competition, to facilitate coordination between different Community and national initiatives concerning small and medium-sized enterprises and for reasons of administrative clarity and legal certainty, the definition of ‘small and medium-sized enterprises’ used in this Regulation should be that set out in Annex I to Regulation (EC) No 70/2001.

(12) In accordance with established practice of the Commission, and with a view to ensuring that aid is proportionate and limited to the amount necessary, thresholds should normally be expressed in terms of aid intensities in relation to a set of eligible costs, rather than in terms of maximum aid amounts.

([1]) OJ L 160, 26.6.1999, p. 80.
([2]) OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 1698/2005 (OJ L 277, 21.10.2005, p. 1).

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(13) In order to determine whether or not aid is compatible with the common market pursuant to this Regulation, it is necessary to take into consideration the aid intensity and thus the aid amount expressed as a grant equivalent. The calculation of the grant equivalent of aid payable in several instalments requires the use of market interest rates prevailing at the time of grant. With a view to a uniform, transparent, and simple application of the State aid rules, the market rates for the purposes of this Regulation should be deemed to be the reference rates periodically fixed by the Commission on the basis of objective criteria and published in the *Official Journal of the European Union* and on the Internet.

(14) In order to ensure transparency and effective monitoring, this Regulation should apply only to aid measures which are transparent. These are aid measures in which it is possible to calculate precisely the gross grant equivalent as a percentage of eligible expenditure *ex ante* without a need to undertake a risk assessment (for example, grants, interest rate subsidies and capped fiscal measures). Public loans should be considered to be transparent provided that they are backed by normal security and do not involve abnormal risk and are therefore not considered to contain a State guarantee element. In principle, aid measures involving State guarantees or public loans with a State guarantee element should not be considered as transparent. However, such aid measures should be considered as transparent if, before the implementation of the measure, the methodology used to calculate the aid intensity of the State guarantee has been accepted by the Commission following notification to the Commission after adoption of this Regulation. The methodology will be assessed by the Commission in line with the Notice on the application of Article 87 and 88 of the EC Treaty to State aid in the Forms of Guarantees [1]. Public participation and aid comprised in risk capital measures should not be considered as transparent aid. Aid measures which are not transparent should always be notified to the Commission. Notifications of non-transparent aid measures will be assessed by the Commission in particular in the light of the criteria set out in the Community guidelines for State aid in the agriculture and forestry sector 2007-2013.

(15) In accordance with established practice of the Commission for the evaluation of State aid in the agricultural sector, no differentiation between small enterprises and medium-sized enterprises is necessary. For certain types of aid, the establishment of maximum amounts of aid which a beneficiary may receive is appropriate.

(16) Aid ceilings should be fixed, in the light of the Commission's experience, at a level that strikes the appropriate balance between minimising distortions of competition in the aided sector and the objective of facilitating the development of the economic activities of small and medium-sized enterprises in the agriculture sector. In the interests of coherence with Community-financed

[1] OJ C 71, 11.3.2000, p. 14.

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support measures, the ceilings should be harmonised with those fixed in Regulation (EC) No 1257/1999 and in Regulation (EC) No 1698/2005.

(17) It is appropriate to establish further conditions that should be fulfilled by any aid scheme or individual aid exempted by this Regulation. Any restrictions on production or limitations of Community support under the common market organisations should be taken into account. Having regard to Article 87(3)(c) of the Treaty, aid should not have the sole effect of continuously or periodically reducing the operating costs which the beneficiary would normally have to bear, and should be proportionate to the handicaps that have to be overcome in order to secure the socio-economic benefits deemed to be in the Community interest. Unilateral State aid measures which simply seek to improve the financial situation of producers but which in no way contribute to the development of the sector, and in particular aids which are granted solely on the basis of price, quantity, unit of production or unit of the means of production are considered to constitute operating aids which are incompatible with the common market. Furthermore, such aids are also likely to interfere with the mechanisms of the common organisations of the markets. It is therefore appropriate to limit the scope of this Regulation to certain types of aid.

(18) This Regulation should exempt aid to small and medium-sized agricultural holdings (farms) regardless of location. Investment and job creation can contribute to the economic development of less favoured regions and areas as referred to in Article 36(a)(i), (ii) and (iii) of Regulation (EC) No 1698/2005. Small and medium-sized agricultural holdings (farms) in those areas suffer from both the structural disadvantage of the location and the difficulties deriving from their size. It is therefore appropriate that small and medium-sized enterprises in such areas should benefit from higher ceilings.

(19) Because of the risk of distortions resulting from targeted investment aid and in order to offer farmers freedom to decide about products invested in, investment aid exempted under this Regulation should not be limited to specific agricultural products. This condition should not prevent a Member State from excluding certain agricultural products from such aid or aid schemes, notably where no normal market outlets can be found. Also, certain types of investment should per se be excluded from this Regulation.

(20) Where aid is granted to adapt to newly introduced standards at Community level, Member States should not be able to lengthen the adaptation period for farmers by delaying implementation of such rules. Therefore, the date from which new legislation can no longer be considered new should be clearly set out.

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(21) Certain Council Regulations in the field of agriculture provide for specific authorisations for the payment of aid by Member States, often in combination with or in addition to Community financing. However, those provisions usually do not provide for an exemption from the duty to notify under Article 88 of the Treaty, insofar as such aid fulfils the conditions of Article 87(1) of the Treaty. Since the conditions for such aids are clearly specified in those Regulations, and/or there is a duty to communicate such measures to the Commission under the special provisions of those Regulations, no further and separate notification under Article 88(3) of the Treaty is necessary in order to allow for an assessment of these measures by the Commission. For reasons of legal certainty, a reference to those provisions should be included in this Regulation, and therefore notification of those measures under Article 88 of the Treaty should not be necessary, insofar as it can be ascertained in advance that such aid is exclusively granted to small and medium-sized enterprises.

(22) In order to ensure that the aid is necessary and acts as an incentive to develop certain activities, this Regulation should not exempt aid for activities in which the beneficiary would already engage under market conditions alone. No aid should be granted retroactively in respect of activities which have already been undertaken by the beneficiary.

(23) This Regulation should not exempt aid cumulated with other State aid, including aid granted by national, regional or local authorities, with public support granted within the framework of Regulation (EC) No 1698/2005 or with Community assistance, in relation to the same eligible costs, when such cumulation exceeds the thresholds fixed in this Regulation. Aid exempted under this Regulation should not be cumulated with *de minimis* support within the meaning of Commission Regulation (EC) No 1860/2004 of 6 October 2004 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the agriculture and fisheries sectors ([1]) in respect of the same eligible expenditure or investment project, if such cumulation would result in an aid intensity exceeding that fixed by this Regulation.

(24) In order to ensure transparency and effective monitoring, in accordance with Article 3 of Regulation (EC) No 994/98, it is appropriate 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 individual aid is granted outside such a scheme, with a view to publication in the *Official Journal of the European Union*. For the same reasons, it is appropriate to establish rules concerning the records that Member States should keep regarding the aid exempted by this Regulation. For the purposes of the annual report to be submitted to the Commission by Member States, it is appropriate for the Commission to establish its specific requirements. In view of the wide availability of the necessary technology, the summary information and the annual report should be in computerised form.

([1]) OJ L 325, 28.10.2004, p. 4.

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(25) Failure by a Member State to comply with the reporting obligations established in this Regulation may make it impossible for the Commission to perform its monitoring task under Article 88(1) of the Treaty and, in particular, to assess whether the cumulative economic effect of the aids exempted under this Regulation is such as to adversely affect trading conditions to an extent contrary to the common interest. The need to evaluate the cumulative effect of State aid is particularly high where the same beneficiary may receive aid granted by several sources, as is increasingly the case in the field of agriculture. It is therefore of primary importance that the Member State rapidly submits appropriate information before implementing aid under this Regulation.

(26) Aid to companies active in the processing and marketing of agricultural products should be covered by the rules governing aid to small and medium-sized enterprises in other sectors laid down in Regulation (EC) No 70/2001. Regulation (EC) No 70/2001 should therefore be amended accordingly.

(27) State aid exempted under Regulation (EC) No 1/2004 should continue to be exempted if it fulfils all the conditions of this Regulation.

(28) It is appropriate to lay down transitional provisions for aid which was granted before the entry into force of this Regulation and was not notified in breach of the obligation in Article 88(3) of the Treaty.

(29) This Regulation is without prejudice to the possibility for Member States to notify aid to small and medium-sized enterprises active in the production of agricultural products. Such notifications will be assessed by the Commission in the light of this Regulation and on the basis of the Community guidelines for State aid in the agriculture and forestry sector 2007-2013. Notifications pending on the date of entry into force of this Regulation should be assessed first in the light of this Regulation and, if the conditions it lays down are not fulfilled, then on the basis of the Community guidelines for State aid in the agriculture and forestry sector 2007-2013.

(30) In the light of the Commission's experience in this area, and in particular the frequency with which it is generally necessary to revise State aid policy, it is appropriate to limit the period of application of this Regulation. Should this Regulation expire without being extended, aid schemes already exempted by this Regulation should continue to be exempt for a further period of six months, in order to give Member States time to adapt,

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HAS ADOPTED THIS REGULATION:

CHAPTER 1

SCOPE, DEFINITIONS AND CONDITIONS

Article 1

Scope

1. This Regulation shall apply to transparent aid granted to small and medium-sized agricultural holdings (farms) active in the primary production of agricultural products. Without prejudice to Article 9, it shall not apply to aid granted for expenditure linked to the processing or marketing of agricultural products.

2. Without prejudice to Article 16(1)(a), this Regulation shall not apply to:

(a) aid to export-related activities, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;

(b) aid contingent upon the use of domestic over imported goods.

Article 2

Definitions

For the purpose of this Regulation:

1. 'aid' means any measure fulfilling all the criteria laid down in Article 87(1) of the Treaty;

2. 'agricultural product' means:

   (a) the products listed in Annex I of the Treaty, except fishery and acquaculture products covered by Council Regulation (EC) No 104/2000 ([1]);

   (b) products falling under CN codes 4502, 4503 and 4504 (cork products);

   (c) products intended to imitate or substitute milk and milk products, as referred to in Article 3(2) of Council Regulation (EEC) No 1898/87 ([2]);

3. '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 the first sale;

([1]) OJ L 17, 21.1.2000, p. 22.
([2]) OJ L 182, 3.7.1987, p. 36.

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4. ‘marketing of agricultural products’ means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose;

5. ‘small and medium-sized enterprises’ (SME) means small and medium-sized enterprises as defined in Annex I to Regulation (EC) No 70/2001;

6. ‘gross aid intensity’ means the aid amount expressed as a percentage of the project's eligible costs. All figures used shall be taken before any deduction for direct taxation. Where aid is awarded in a form other than a grant, the aid amount shall be the grant equivalent of the aid. Aid payable in several instalments shall be discounted to its value at the moment of granting. The interest rate to be used for discounting purposes and for calculating the aid amount in a soft loan shall be the reference rate applicable at the time of grant;

7. ‘quality product’ is a product fulfilling the criteria to be defined pursuant to Article 32 of Regulation (EC) No 1698/2005;

8. ‘adverse climatic event which can be assimilated to a natural disaster’ means weather conditions such as frost, hail, ice, rain or drought which destroy more than 30 % of the average of annual production of a given farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry;

9. ‘less favoured areas’ means areas as defined by Member States on the basis of Article 17 of Regulation (EC) No 1257/1999;

10. ‘investment made to comply with newly introduced minimum standards’ means:

    (a) in the case of standards which do not provide for any transitional period, investments actually started not more than two years after the date on which the standards are to be made compulsory vis-à-vis operators; or

    (b) in the case of standards which provides for a transitional period, investments actually started before the date on which the standards are to be made compulsory vis-à-vis operators;

11. ‘young farmers’ means producers of agricultural products fulfilling the criteria laid down in Article 22 of Regulation (EC) No 1698/2005;

12. ‘producer group’ means a group which is set up for the purpose of jointly adapting, within the objectives of the common market organisations, the production and output of its members to market requirements, in particular by concentrating supply;

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13. ‘producer association’ means an association which consists of recognised producer groups and pursues the same objectives on a larger scale;

14. ‘fallen stock’ means animals which have been killed by euthanasia with or without definite diagnosis or have died (including stillborn and unborn animals) on a farm or any premise or during transport, but have not been slaughtered for human consumption;

15. ‘TSE and BSE test costs’ means all costs, including those for test kits, taking, transporting, testing, storing and destruction of samples necessary for tests undertaken in accordance with Annex X, Chapter C to Regulation (EC) No 999/2001 of the European Parliament and of the Council ([1]);

16. ‘enterprises in difficulty’ means enterprises considered in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty ([2]);

17. ‘replacement investment’ means an investment that simply replaces an existing building or machine, or parts of it, by a new up-to date building or machine, without expanding the production capacity by at least 25 % or without fundamentally changing the nature of production or the technology involved. Neither the complete demolition of a farm building at least 30 years old and replacement by an up-to date building, nor the fundamental renovation of a farm building, are considered as replacement investments. Renovation is considered as fundamental when its cost amounts to at least 50 % of the value of the new building.

18. ‘transparent aid’ means aid measures in which it is possible to calculate precisely the gross grant equivalent as a percentage of eligible expenditure ex ante without need to undertake a risk assessment (for example measures which use grants, interest rate subsidies, capped fiscal measures).

Article 3

Conditions for exemption

1. Transparent individual aid outside any scheme, fulfilling all the conditions of this Regulation, shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that the summary information provided for in Article 20(1) has been submitted and that the aid contains an express reference to this Regulation, by citing its title and publication reference in the *Official Journal of the European Union*.

([1]) OJ L 147, 31.5.2001, p. 1.
([2]) OJ C 244, 1.10.2004, p. 2.

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2. Transparent aid schemes fulfilling all the conditions set out in this Regulation shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that:

(a) any aid that could be awarded under such scheme fulfils all the conditions set out in this Regulation;

(b) the scheme contains an express reference to this Regulation, citing its title and publication reference in the *Official Journal of the European Union*;

(c) the summary information provided for in Article 20(1) has been submitted.

3. Aid granted under the schemes referred to in paragraph 2 shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that the aid granted directly fulfils all the conditions of this Regulation.

4. Aid which does not fall within the scope of this Regulation, or of other Regulations adopted pursuant to Article 1 of Regulation (EC) No 994/98 or Regulations listed in Article 17 of this Regulation, shall be notified to the Commission in accordance with Article 88(3) of the Treaty. Such aid shall be assessed in accordance with the criteria laid down in the Community guidelines for State aid in the agriculture and forestry sector 2007-2013.

CHAPTER 2

CATEGORIES OF AID

Article 4

Investment in agricultural holdings

1. Aid for investments in agricultural holdings within the Community for primary production of agricultural products, shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the conditions set out in paragraphs 2 to 10 of this Article.

2. The gross aid intensity must not exceed:

(a) 50 % of eligible investments in less favoured areas or in areas referred to in Article 36(a)(i), (ii) and (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation;

(b) 40 % of eligible investments in other regions;

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(c) 60 % of eligible investments in less-favoured areas or in areas referred to in Article 36(a)(i), (ii) and (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, and 50 % in other regions, in the case of investments made by young farmers within five years of setting up;

(d) 75 % of eligible investments in the outermost regions and the small Aegean Islands within the meaning of Council Regulation (EEC) No 2019/93 ([1]);

(e) 75 % of eligible investments in regions referred to in point (a) and 60 % in other regions where investments result in extra costs relating to the protection and improvement of the environment, the improvement of hygiene conditions of livestock enterprises or the welfare of farm animals. This increase may only be granted for investments which go beyond the minimum Community requirements in force, or for investments made to comply with newly introduced minimum standards. The increase must be limited to the extra eligible costs necessary and must not apply in the case of investments which result in an increase in production capacity.

3. The investment must pursue notably the following objectives:

(a) reduction of production costs;

(b) improvement and re-deployment of production;

(c) improvement in quality;

(d) preservation and improvement of the natural environment, or the improvement of hygiene conditions or animal welfare standards.

4. The eligible expenses may include:

(a) the construction, acquisition or improvement of immovable property;

(b) the purchase or lease-purchase of machinery and equipment, including computer software up to the market value of the asset;

(c) general costs linked to expenditure under points (a) and (b), such as architects, engineers and consultation fees, feasibility studies, the acquisition of patents and licences.

Costs connected with a leasing contract other than those listed in point (b) of the first subparagraph, such as tax, lessor's margin, interest refinancing costs, overheads insurance, charges, etc. are not eligible expenditure.

5. Aid may only be granted to agricultural holdings which are not enterprises in difficulty.

Aid may be granted in order to enable the beneficiary to reach newly introduced minimum standards regarding the environment, hygiene and animal welfare.

([1]) OJ L 184, 27.7.1993, p. 1.

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6. The aid must not be granted in contravention of any prohibitions or restrictions laid down in Council Regulations establishing common organisations of the market, even where such prohibitions and restrictions only refer to Community support.

7. The aid must not be limited to specific agricultural products and must therefore be open to all sectors of agriculture, unless a Member State excludes certain products because of overcapacity or a lack of market outlets. Aid must not be granted in respect of the following:

(a) the purchase of production rights, animals and annual plants;

(b) the planting of annual plants;

(c) drainage works or irrigation equipment and irrigation works, unless such investment leads to a reduction of previous water use of at least 25 %;

(d) simple replacement investments.

8. Aid may be granted for a purchase of land other than land for construction purposes costing up to 10 % of the eligible expenses of the investment.

9. The maximum amount of aid granted to an individual enterprise must not exceed EUR 400 000 over any period of three fiscal years, or EUR 500 000 if the enterprise is situated in a less favoured area or in an area referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation.

10. The aid must not be granted in respect of the manufacture of products which imitate or substitute for milk and milk products.

Article 5

Conservation of traditional landscapes and buildings

1. Aid for conservation of traditional landscapes and buildings shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it complies with the provisions of paragraphs 2 and 3 of this Article.

2. Aid may be granted up to 100 % of the real costs incurred as regards investments or capital works intended for the conservation of non-productive heritage features located on agricultural holdings, such as archaeological or historical features. These costs may include reasonable compensation for the work undertaken by the farmer himself, or his workers, up to a limit of EUR 10 000 a year.

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3. Aid may be granted up to 60 %, or 75 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, of the real costs incurred as regards investments or capital works intended for the conservation of heritage features of productive assets on farms, such as farm buildings, provided that the investment does not entail any increase in the production capacity of the farm.

Where there is an increase in production capacity, the aid rates for investment established in Article 4(2) shall apply as regards eligible expenses resulting from undertaking the relevant work using normal contemporary materials. Additional aid may be granted at a rate of up to 100 % to cover the extra costs incurred by using traditional materials necessary to maintain the heritage features of the building.

Article 6

Relocation of farm buildings in the public interest

1. Aid for the relocation of farm buildings shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it is in the public interest and fulfils the conditions set out in paragraphs 2, 3 and 4 of this Article.

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

2. Aid may be granted up to 100 % of the actual costs incurred where a relocation in the public interest simply consists of the dismantling, removal and re-erection of existing facilities.

3. Where the relocation in the public interest results in the farmer benefiting from more modern facilities, the farmer must contribute at least 60 %, or 50 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, of the increase in the value of the facilities concerned after relocation. If the beneficiary is a young farmer, this contribution shall be at least 55 % or 45 % respectively.

4. Where the relocation in the public interest results in an increase in production capacity, the contribution from the beneficiary must be at least equal to 60 %, or 50 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, of the expenses relating to this increase. If the beneficiary is a young farmer, this contribution shall be at least 55 % or 45 %.

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Article 7

Aid for setting up of young farmers

Aid for the setting up of young farmers shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if the criteria set out in Article 22 of Regulation (EC) No 1698/2005 are fulfilled.

Article 8

Aid for early retirement

Aid for early retirement of farmers shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty under the following conditions:

(a) the criteria set out in Article 23 of Regulation (EC) No 1698/2005 and any rules adopted by the Commission to implement that Article must be fulfilled;

(b) the cessation of commercial farming activities must be permanent and definitive.

Article 9

Aid for producer groups

1. Start-up aid for the constitution of producer groups or producer associations shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it complies with the provisions of paragraphs 2 to 8 of this Article.

2. The following shall be eligible for the aid referred to in paragraph 1, provided that they are entitled to financial assistance under the legislation of the Member State concerned:

(a) producer groups or producer associations involved in the production of agricultural products; and/or

(b) associations of producers responsible for the supervision of the use of geographical indications and designations of origin or quality marks in conformity with Community law.

The internal rules of the producer group or association must provide an obligation on members to market production in accordance with the rules on supply and placing on the market drawn up by the group or association. Those rules may permit a proportion of the production to be marketed directly by the producer. They must require producers joining the group or association to remain members for at least three years and to give at least 12 months notice of withdrawal. In addition they must provide common rules on production, in particular relating to product quality, or use of organic practices or other practices designed to protect the environment, common rules for placing goods on the market and

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rules on product information, with particular regard to harvesting and availability. However, producers must remain responsible for managing their holdings. The agreements concluded in the framework of the producer group or association must comply fully with all relevant provisions of competition law, in particular Articles 81 and 82 of the Treaty.

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

4. The aid must not be paid in respect of costs incurred after the fifth year, or paid following the seventh year after recognition of the producer organisation. This is without prejudice to grant aid towards eligible expenses limited to and resulting from a year-on-year increase in turnover of a beneficiary of at least 30 % where this is due to the accession of new members and/or the coverage of new products.

5. The aid must not be granted to production organisations such as companies or co-operatives, the objective of which is the management of one or more agricultural holdings and which are therefore in effect single producers.

6. The aid must not be granted to other agricultural associations, which undertake tasks at the level of agricultural production, such as mutual support and farm relief and farm management services, in the members' holdings without being involved in the joint adaptation of supply to the market.

7. The total amount of aid granted to a producer group or association under this Article must not exceed EUR 400 000.

8. The aid must not be granted to producer groups or associations the objectives of which are incompatible with a Council Regulation setting up a common market organisation.

Article 10

Aid in respect of animal and plant diseases and pest infestations

1. Aid to compensate farmers for the costs of prevention and eradication of animal or plant diseases or pest infestations incurred for the costs of health checks, tests and other screening measures, purchase and administration of vaccines, medicines and plant protection products, slaughter and destruction costs of animals and costs of destruction of crops shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the following conditions and the conditions set out in paragraphs 4 to 8 of this Article:

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(a) the gross aid intensity must not exceed 100 %;

(b) the aid shall be granted in kind by means of subsidised services and must not involve direct payments of money to producers.

2. Aid to compensate farmers for losses caused by animal or plant diseases or pest infestations shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the following conditions and the conditions set out in paragraphs 4 to 8 of this Article:

(a) compensation must be calculated only in relation to:

(i) the market value of animals killed or plants destroyed by the disease or pest infestation or of animals killed or plants destroyed by public order as part of a compulsory public prevention or eradication programme;

(ii) income losses due to quarantine obligations and difficulties in restocking or replanting;

(b) the gross aid intensity must not exceed 100 %;

(c) the aid must be limited to losses caused by diseases for which an outbreak has been formally recognised by public authorities.

3. The maximum amount of costs or loss eligible for aid pursuant to paragraphs 1 and 2 must be reduced by:

(a) any amount received under insurance schemes; and

(b) costs not incurred because of the disease, which would otherwise have been incurred.

4. Payments must be made in relation to diseases or pests for which Community or national provisions exist, whether laid down by law, regulation or administrative action. Payments must thus be made as part of a public programme at Community, national or regional level for the prevention, control or eradication of the disease or pest concerned. The diseases or pest infestation must be clearly identified in the programme, which must also contain a description of the measures concerned.

5. The aid must not relate to a disease in respect of which Community legislation provides for specific charges for control measures.

6. The aid must not relate to measures in respect of which Community legislation provides that the cost of such measures is to be borne by the agricultural holding, unless the cost of such aid measures is entirely offset by compulsory charges on producers.

7. As regards animal diseases, the aid must be granted in respect of diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health and/or in the Annex to Council Decision 90/424/EEC ([1]).

([1]) OJ L 224, 18.8.1990, p. 19.

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8. Aid schemes must be introduced within three years following the occurrence of the expense or loss. Aid must be paid out within four years following the occurrence.

Article 11

Aid for losses due to adverse climatic events

1. Aid to compensate farmers for losses of plants or animals or farm buildings caused by adverse climatic events which can be assimilated to natural disasters shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the conditions set out in paragraphs 2 to 6, 9 and 10 of this Article as far as plants or animals are concerned, and paragraphs 3 to 8 and 10 of this Article as far as farm buildings are concerned.

2. Gross aid intensity must not exceed 80 %, and 90 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, of the reduction in income from the sale of the product resulting from the adverse climatic event. That reduction in income shall be calculated by subtracting:

(a) the result of multiplying the quantity of product produced in the year of the adverse climatic event by the average selling price obtained during that year;

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

The amount thus eligible for aid may be increased by other costs specifically incurred by the farmer because of non-harvesting due to the adverse event.

3. The maximum amount of loss eligible for aid pursuant to paragraph 1 must be reduced by:

(a) any amount received under insurance schemes; and

(b) costs not incurred because of the adverse climatic event.

4. The calculation of loss must be made at the level of the individual holding.

5. Aid must be paid directly to the farmer concerned or to a producer organisation of which the farmer is a member. If the aid is paid to a producer organisation, the amount of aid must not exceed the amount of aid that could be granted to the farmer.

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6. Compensation for damages to farm buildings and farm equipment caused by adverse climatic events which can be assimilated to natural disasters must not exceed gross aid intensity of 80 %, and 90 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation.

7. The adverse climatic event which can be assimilated to a natural disaster must be formally recognised as such by public authorities.

8. From 1 January 2010, compensation offered must be reduced by 50 % unless it is given to farmers 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.

9. From 1 January 2011, aid for losses caused by drought may be paid only by a Member State which has fully implemented Article 9 of Directive 2000/60/EC of the European Parliament and of the Council ([1]) in respect of agriculture, and ensures that the costs of water services provided to agriculture are recovered through an adequate contribution from that sector.

10. Aid schemes must be introduced within three years following the occurrence of the expense or loss. Aid must be paid out within four years following the occurrence.

Article 12

Aid towards the payment of insurance premiums

1. Aid for insurance premiums shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the conditions set out in paragraphs 2 and 3 of this Article.

2. The gross aid intensity must not exceed:

(a) 80 % of the cost of insurance premiums, where the policy specifies that it provides cover only against losses caused by adverse climatic events which can be assimilated to natural disasters;

(b) 50 % of the cost of insurance premiums, where the policy specifies that it provides cover against:

(i) losses referred to in point (a) and against other losses caused by climatic events; and/or

(ii) losses caused by animal or plant diseases or pest infestations.

([1]) OJ L 327, 22.12.2000, p. 1.

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3. The aid must not constitute a barrier to the operation of the internal market for insurance services. The aid must not be limited to insurance provided by a single insurance company or group of companies, or be made subject to the condition that the insurance contract be taken out with a company established in the Member State concerned.

Article 13

Aid for land reparcelling

Aid for land reparcelling shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it is granted towards and limited to the legal and administrative costs, including survey costs, up to 100 % of actual costs incurred.

Article 14

Aid to encourage the production of quality agricultural products

1. Aid to encourage the production of quality agricultural products shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it is granted towards the eligible costs listed in paragraph 2 and fulfils the conditions set out in paragraphs 3 to 6 of this Article.

2. Aid may be granted to cover the costs of the following service activities, insofar as they are related to the development of quality agricultural products:

(a) up to 100 % of the costs of market research activities, product conception and design, including aid granted for the preparation of applications for recognition of geographical indications and designations of origin or certificates of specific character in accordance with the relevant Community regulations;

(b) up to 100 % of the costs of the introduction of quality assurance schemes such as ISO 9000 or 14000 series, systems based on hazard analysis and critical control points (HACCP), traceability systems, systems to assure respect of authenticity and marketing norms or environmental audit systems;

(c) up to 100 % of the costs of training personnel to apply schemes and systems as referred to in point (b);

(d) up to 100 % of the costs of the charges levied by recognised certifying bodies for the initial certification of quality assurance and similar systems;

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(e) up to 100 % of the costs of compulsory control measures undertaken pursuant to Community or national legislation by or on behalf of the competent authorities, unless Community legislation requires enterprises to bear such costs;

(f) up to the amounts laid down in the Annex to Regulation (EC) No 1698/2005 for support concerning measures referred to in Article 32 of that Regulation.

3. The aid may be granted only in respect of costs of services provided by third parties and/or controls undertaken by or on behalf of third parties, such as the competent regulatory authorities, or bodies acting on their behalf, or independent organisms responsible for the control and supervision of the use of geographical indications and designations of origin, organic labels, or quality labels, provided these denominations and labels are in conformity with Community legislation. The aid must not be granted towards expenditure for investment.

4. The aid must not be granted towards the cost of controls undertaken by the farmer or manufacturer himself, or where Community legislation provides that the cost of control is to be met by producers, without specifying the actual level of charges.

5. With the exception of the aid referred to in paragraph 2(f), the aid shall be granted in kind by means of subsidised services and must not involve direct payments of money to producers.

6. The aid must be accessible to all those eligible in the area concerned, based on objectively defined conditions. Where the provision of services listed in paragraph 2 is undertaken by producer groups or other agricultural mutual support organisations, membership of such groups or organisations must not be a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organisation concerned must be limited to the proportional costs of providing the service.

Article 15

Provision of technical support in the agricultural sector

1. Aid shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it is granted towards the eligible costs of the technical support activities listed in paragraph 2 and fulfils the conditions set out in paragraphs 3 and 4 of this Article.

2. Aid may be granted to cover the following eligible costs:

(a) concerning education and training of farmers and farm workers:

(i) costs of organising the training programme;

(ii) travel and subsistence expenses of participants;

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(iii) cost of the provision of replacement services during the absence of the farmer or the farm worker;

(b) concerning farm replacement services, the actual costs of the replacement of a farmer, the farmer's partner, or a farm worker, during illness and holidays;

(c) concerning consultancy services provided by third parties, the fees for services which do not constitute a continuous or periodic activity nor relate to the enterprise's usual operating expenditure, such as routine tax consultancy services, regular legal services, or advertising;

(d) concerning the organisation of and participation in forums to share knowledge between businesses, competitions, exhibitions and fairs:

(i) participation fees;

(ii) travel costs;

(iii) costs of publications;

(iv) the rent of exhibition premises;

(v) symbolic prizes awarded in the framework of competitions, up to a value of EUR 250 per prize and winner;

(e) provided that individual companies, brands or origin are not named:

(i) the vulgarisation of scientific knowledge;

(ii) factual information on quality systems open to products from other countries, on generic products and on the nutritional benefits of generic products and suggested uses for them.

Aid may also be granted to cover the costs referred to in point (e) if the origin of products covered by Council Regulation (EC) No 510/2006 [1] and by Articles 54 to 58 of Council Regulation (EC) No 1493/1999 [2] is indicated, provided that the references to the origin correspond exactly to those references which have been registered by the Community.

(f) publications such as catalogues or websites presenting factual information about producers from a given region or producers of a given product, provided the information and presentation is neutral and that all producers concerned have equal opportunities to be represented in the publication.

3. The aid may cover 100 % of the costs listed in paragraph 2. The aid must be granted in kind by means of subsidised services and must not involve direct payments of money to producers.

[1] OJ L 93, 31.3.2006, p. 12.
[2] OJ L 179, 14.7.1999, p. 1.

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

Article 16

Support for the livestock sector

1. The following aid to enterprises active in the livestock sector shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty:

(a) aid at a rate of up to 100 % to cover the administrative costs of the establishment and maintenance of herd books;

(b) aid at a rate of up to 70 % of the costs of 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) until 31 December 2011, aid at a rate of up to 40 % for the introduction at farm level of innovative animal breeding techniques or practices, with the exception of costs relating to the introduction or performance of artificial insemination;

(d) aid at a rate of up to 100 % of costs of removal of fallen stock, and 75 % of the costs of destruction of such carcasses; alternatively, aid up to an equivalent amount towards the costs of premiums paid by farmers for insurance covering the costs of removal and destruction of fallen stock;

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

(f) aid of 100 % for the costs of removal and destruction of fallen stock where there is an obligation to perform TSE tests on the fallen stock concerned;

(g) aid at a rate of up to 100 % towards the costs of TSE tests.

As far as compulsory BSE testing of bovine animals slaughtered for human consumption is concerned, total direct and indirect support, including Community payments, must not be more than EUR 40 per test. This amount refers to the total costs of testing, comprising test-kit, taking, transporting, testing, storing and destruction of the sample. The obligation to test may be based on Community or national legislation.

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2. The exemption provided for in paragraph 1(d), (e), (f) and (g) shall be conditional upon the existence of a consistent programme monitoring and ensuring safe disposal of all fallen stock in the Member State. In order to facilitate administration of such State aid, payment may be made to economic operators active downstream from the farmer, providing services linked to the removal and/or destruction of fallen stock, if it can be properly demonstrated that the full amount of State aid paid is passed on to the farmer.

3. The aid shall not involve direct payments of money to producers.

Article 17

Aid provided for in certain Council Regulations

The following aid to small and medium-sized enterprises shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty:

(a) aid granted by Member States fulfilling all the conditions laid down in Council Regulation (EC) No 1255/1999 ([1]), in particular Article 14(2) thereof;

(b) aid granted by Member States fulfilling all the conditions laid down in Council Regulation (EC) No 1782/2003 ([2]), in particular Article 87, Article 107(3) and the first subparagraph of Article 125(5) thereof;

(c) aid granted by Member States in accordance with Article 15(6) of Council Regulation (EC) No 2200/96 ([3]).

CHAPTER 3

COMMON AND FINAL PROVISIONS

Article 18

Steps preceding grant of aid

1. In order to qualify for exemption under this Regulation, aid shall only be granted under an aid scheme in respect of activities undertaken or services received after the aid scheme has been set up and published in accordance with this Regulation.

If the aid scheme creates an automatic right to receive the aid, requiring no further action at administrative level, the aid itself shall only be granted in respect of activities undertaken or services received after the aid scheme has been set up and published in accordance with this Regulation.

([1]) OJ L 160, 26.6.1999, p. 48.
([2]) OJ L 270, 21.10.2003, p. 1.
([3]) OJ L 297, 21.11.1996, p. 1.

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If the aid scheme requires an application to be submitted to the competent authority concerned, the aid itself shall only be granted in respect of activities undertaken or services received after the following conditions have been fulfilled:

(a) the aid scheme must have been set up and published in accordance with this Regulation;

(b) an application for the aid must have been properly submitted to the competent authority concerned;

(c) the application must have been accepted by the competent authority concerned in a manner which obliges that authority to grant the aid, clearly indicating the amount of aid to be granted or how this amount will be calculated; such acceptance by the competent authority may only be made if the budget available for the aid or aid scheme not exhausted.

2. In order to qualify for exemption under this Regulation, individual aid outside any aid scheme shall only be granted in respect of activities undertaken or services received after the criteria in points (b) and (c) of the third subparagraph of paragraph 1 have been satisfied.

3. This Article shall not apply to aid covered by Article 17.

Article 19

Cumulation

1. The aid ceilings fixed in Articles 4 to 16 shall apply regardless of whether the support for the aided project or activity is financed entirely from State resources or is partly financed by the Community.

2. Aid exempted by this Regulation shall not be cumulated with any other State aid within the meaning of Article 87(1) of the Treaty, or financial contributions provided by Member States, including those covered by the second subparagraph of Article 88(1) of Regulation (EC) No 1698/2005, or financial contributions by the Community in relation to the same eligible costs, if such cumulation would result in an aid intensity exceeding the maximum laid down in this Regulation.

3. Aid exempted by this Regulation shall not be cumulated with *de minimis* support within the meaning of Regulation (EC) No 1860/2004 in respect of the same eligible expenditure or investment project, if such cumulation would result in an aid intensity exceeding that fixed by this Regulation.

Article 20

Transparency and monitoring

1. At the latest 10 working days before the entry into force of an aid scheme exempted by this Regulation, or the granting of individual aid exempted by this Regulation outside any scheme, Member States shall

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forward to the Commission, with a view to its publication in the *Official Journal of the European Union*, a summary of the information regarding such aid scheme or individual aid in the form laid down in Annex I. This shall be provided in computerised form. Within 10 working days of receipt of that summary, the Commission will send a notice of receipt with an identification number and publish the summary on the internet.

2. Member States shall maintain detailed records regarding the aid schemes exempted by this Regulation, the individual aid granted under those schemes, and the individual aid exempted by this Regulation that is granted outside any existing aid scheme. Such records shall contain all information necessary to establish that the conditions for exemption, as laid down in this Regulation, are fulfilled, including information on the status of the company as an SME. Member States shall keep a record regarding each individual aid for 10 years from the date on which it was granted and, regarding an aid scheme, for 10 years from the date on which the last individual aid was granted under such scheme. On written request, 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 which the Commission considers necessary to assess whether the conditions of this Regulation have been complied with.

3. Member States shall compile a report on the application of this Regulation in respect of each whole or part calendar year during which this Regulation applies, in the form laid down in Annex II. This report may be integrated into the annual report to be submitted by Member States pursuant to Article 21(1) of Council Regulation (EC) No 659/1999 ([1]), and shall be submitted by 30 June of the year following the calendar year covered by the report. By the same date, the Member State shall submit a separate report relating to payments made under Articles 10 and 11 of this Regulation, describing the amounts paid in that calendar year, the conditions for payment, the diseases concerned under Article 10 and, in relation to Article 11, the appropriate meteorological information proofing type, timing, relative magnitude and location of the climatic events and on its consequences on the production for which compensation has been granted.

4. As soon as an aid scheme exempted by this Regulation enters into force, or an individual aid exempted by this Regulation is granted outside an aid scheme, Member States shall publish on the internet the full text of such aid scheme, or the criteria and conditions under which such individual aid is granted.

The address of the web-sites including a direct link to the text of the scheme shall be communicated to the Commission together with the summary of the information regarding the aid required pursuant to paragraph 1. It shall also be contained in the annual report submitted pursuant to paragraph 3.

([1]) OJ L 83, 27.3.1999, p. 1.

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5. Paragraph 1 shall not apply to aid covered by Article 17.

Article 21

Amendment of Regulation (EC) No 70/2001

Regulation (EC) No 70/2001 is amended as follows:

1. In Article 1(2), point (a) is replaced by the following:

‘(a) to fishery and acquaculture products covered by Council Regulation (EC) No 104/2000 (*) and to activities linked to the primary production (farming) of agricultural products; to the manufacture and marketing of products intended to imitate or substitute for milk and milk products;

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(*) OJ L 17, 21.1.2000, p. 22.’;

2. Article 2 is amended as follows:

the following points (k) to (n) are added:

‘(k) “agricultural product” means:

(i) the products listed in Annex I of the Treaty, except fishery and acquaculture products covered by Regulation (EC) No 104/2000;

(ii) products falling under CN codes 4502, 4503 and 4505 (cork products);

(iii) products intended to imitate or substitute milk and milk products, as referred to in Article 3(2) of Council Regulation (EEC) No 1898/87 (*);

(l) “products intended to imitate or substitute milk and milk products” means products which could be confused with milk and/or milk products but whose composition differs from such products in that they contain fat and/or protein of non-milk origin with or without protein derived from milk (“products other than milk products” as referred to in Article 3(2) of Regulation (EEC) No 1898/87);

(m) “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 the first sale;

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(n) "marketing of agricultural products" means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose.

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(*) OJ L 182, 3.7.1987, p. 36.';

3. In Article 4, the following paragraph 7 is added:

'7. Where the investment concerns the processing and marketing of agricultural products listed in Annex I to the Treaty, the gross aid intensity may not exceed:

(a) 75 % of eligible investments in the outermost regions;

(b) 65 % of eligible investments in the smaller Aegean Islands within the meaning of Council Regulation (EEC) No 2019/93 (*);

(c) 50 % of eligible investments in regions eligible under Article 87(3)(a) EC;

(d) 40 % of eligible investments in all other regions.

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(*) OJ L 184, 27.7.1993, p. 1.'

4. In Annex II, the following is added after 'Other manufacturing', at the same level as 'All manufacturing':

'□ Processing and marketing of agricultural products (*)

_____

(*) As defined in Article 2(k) of this Regulation.'

Article 22

Transitional measures

Aid schemes exempted under Regulation (EC) No 1/2004 which fulfil all the conditions of this Regulation shall continue to be exempted until the date mentioned in Article 23(1) of this Regulation

Article 23

Entry into force and applicability

1. This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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It shall apply from 1 January 2007 until 30 June 2014.

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2. Notifications pending at the time of entry into force of this Regulation shall be assessed in accordance with its provisions. Where the conditions of this Regulation are not fulfilled, the Commission will examine such pending notifications under the Community guidelines for State aid in the agriculture sector.

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Individual aid and aid schemes implemented before the date of entry into force of this Regulation and aid granted under those schemes in the absence of a Commission authorisation and in breach of the notification requirement of Article 88(3) of the Treaty shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt if they fulfil the conditions laid down in Article 3 of this Regulation, except the requirements in paragraph 1 and paragraph 2 (b) and (c) of that Article that express reference be made to this Regulation, and that the summary provided for in Article 20(1) has been submitted before granting aid. Any aid which does not fulfil those conditions will be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.

3. Aid schemes exempted under this Regulation shall remain exempt for a period of six months following the date of expiry of this Regulation.

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

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ANNEX I

Form of summary information to be provided whenever an aid scheme exempted by this Regulation is implemented and whenever an individual aid exempted by this Regulation is granted outside any aid scheme

Summary information on State aid granted in conformity with Commission Regulation (EC) No 1857/2006

Member State

Region (Indicate the name of the region if the aid is granted by a subcentral authority).

Title of aid scheme or name of company receiving an individual aid (Indicate the name of the aid scheme or in case of individual aid, the name of the beneficiary).

Legal basis (Indicate the precise national legal reference for the aid scheme or for the individual aid).

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company (Amounts are to be given in euros or, if applicable, national currency. In case of an aid scheme, indicate the annual overall amount of the budget appropriation(s) or the estimated tax loss per year for all aid instruments contained in the scheme. In case of an individual aid award: indicate the overall aid amount/tax loss. If appropriate, indicate also for how many years the aid will be paid in instalments or over how many years tax losses will be incurred. For guarantees in both cases, indicate the (maximum) amount of loans guaranteed).

Maximum aid intensity (Indicate the maximum aid intensity or the maximum aid amount per eligible item).

Date of implementation (Indicate the date from which aid may be granted under the scheme or when the individual aid is granted).

Duration of scheme or individual aid award (Indicate the date (year and month) until which aid may be granted under the scheme or in case of an individual aid and if appropriate the expected date (year and month) of the last instalment to be paid).

Objective of aid (It is understood that the primary objective is aid to SME. Indicate the further (secondary) objectives pursued. Indicate which one of (Articles(s) 4 to 17) is used and the eligible costs covered by the scheme or individual aid.

Sector(s) concerned (Indicate the subsectors by mentioning the type of animal production (e.g. pig/poultry) or type of plant production (e.g. apple/tomato) concerned.

Name and address of the granting authority

Web-address (Indicate the internet address where the full text of the scheme or the criteria and conditions under which individual aid is granted outside of an aid scheme can be found).

Other information.

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ANNEX II

Form of the periodic report to be provided to the Commission

Annual reporting format on aid schemes exempted under a group exemption regulation adopted pursuant to Article 1 of Council Regulation (EC) No 994/98

Member States are required to use the format below for their reporting obligations to the Commission under group exemption regulations adopted on the basis of Regulation (EC) No 994/98.

The reports shall be provided in computerised form.

Information required for all aid schemes exempted under group exemption regulations adopted pursuant to Article 1 of Regulation (EC) No 994/98.

1. *Title of aid scheme*

2. *Commission exemption regulation applicable*

3. *Expenditure*

   (Separate figures have to be provided for each aid instrument within a scheme or individual aid (e.g. grant, soft loans, etc.)). The figures have to be expressed in euros or, if applicable, national currency. In the case of tax expenditure, annual tax losses have to be reported. If precise figures are not available, such losses may be estimated.

   These expenditure figures should be provided on the following basis.

   For the year under review indicate separately for each aid instrument within the scheme (e.g. grant, soft loan, guarantee, etc.):

3.1. amounts committed, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new assisted projects. In the case of guarantee schemes, the total amount of new guarantees handed out should be provided;

3.2. actual payments, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new and current projects. In the case of guarantee schemes, the following should be provided: total amount of outstanding guarantees, premium income, recoveries, indemnities paid out, operating result of the scheme under the year under review;

3.3. number of assisted projects and/or enterprises;

3.4. [Leave blank]

3.5. estimated overall amount of:

   — investment aided,

   — expenditure for conservation of traditional landscapes and buildings aided,

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— expenditure for relocation of farm buildings in the public interest aided,

— aid granted for setting up of young farmers,

— aid granted for early retirement,

— expenditure of producer groups aided,

— expenditure for diseases,

— expenditure for bad weather compensation,

— expenditure for insurance premiums aided,

— aid granted for land reparcelling,

— aid granted to encourage the production of quality agricultural products,

— expenditure for technical support aided,

— expenditure for support for the animal sector;

3.6. regional breakdown of amounts under points 3.1. by less favoured areas or by areas referred to in Article 36(a)(i), (ii) and (iii) of Council Regulation (EC) No 1698/2005 and other areas;

3.7. sectoral breakdown of amounts under 3.1. by beneficiaries' sectors of activity (if more than one sector is covered, indicate the share of each):

— type of animal product,

— type of plant product.

4. *Other information and remarks.*