Commission Regulation (EU) 2016/246 of 3 February 2016 amending Annex I to Regulation (EC) No 794/2004 as regards the forms to be used for the notification of State aid in the agricultural and forestry sectors and in rural areas

COMMISSION REGULATION (EU) 2016/246

of 3 February 2016

amending Annex I to Regulation (EC) No 794/2004 as regards the forms to be used for the notification of State aid in the agricultural and forestry sectors and in rural areas

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 33 thereof,

After consulting the Advisory Committee on State aid,

Whereas:

(1) Commission Regulation (EC) No 794/2004[(2)] lays down rules concerning the form, content and other details for the notification of State aid. It provides that the supplementary information needed for the assessment of State aid measures in accordance with regulations, guidelines, frameworks and other texts applicable to State aid is to be provided in the supplementary information sheets set out in Part III of Annex I to that Regulation.

(2) In addition, Regulation (EC) No 794/2004 provides that whenever the relevant guidelines or frameworks are modified or replaced, the Commission shall adapt the corresponding forms and information sheets.

(3) Following the adoption by the Commission of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020[(3)], the rules applied by the Commission in assessing the compatibility of State aid measures with the internal market have changed. Accordingly, it is necessary to replace the information sheets for the notification of State aid in the agricultural and forestry sectors set out in Part III of Annex I to Regulation (EC) No 794/2004.

(4) Regulation (EC) No 794/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 794/2004 is amended in accordance with the Annex to this Regulation.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) 2016/246. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 2

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

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

Done at Brussels, 3 February 2016.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

In Annex I to Regulation (EC) No 794/2004, Parts III.12.A to III.12.Q, are replaced by the following:

PART III. 12

GENERAL INFORMATION SHEET FOR THE EU GUIDELINES FOR STATE AID IN THE AGRICULTURE AND FORESTRY SECTORS AND IN RURAL AREAS

Please note that this general information sheet for the notification of State aid applies to all sectors covered by the European Union Guidelines for State aid in the agriculture and forestry sectors and in rural areas 2014–2020[(4)] ('the Guidelines'). In addition for all measures covered by the Guidelines the relevant Supplementary Information Sheet must be completed.

0. COMMON ASSESSMENT PRINCIPLES

1. Does the State aid measure satisfy the following common assessment principles?

the measure contributes to a well-defined objective of common interest;
the need for State intervention: a State aid measure must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself, by remedying a well-defined market failure;
the appropriateness of the aid measure: the proposed aid measure must be an appropriate policy instrument to address the objective of common interest;
the incentive effect: the aid must change the behaviour of the undertaking(s) concerned in such a way that it engages in an additional activity which it would not carry out without the aid or it would carry out in a restricted or different manner;
the proportionality of the aid (aid limited to the minimum necessary): the aid amount must be limited to the minimum needed to induce the activity in the sector concerned;
the avoidance of major undue negative effects on competition and trade between Member States: the negative effects of aid must be sufficiently limited, so that the overall balance of the measure is positive;
transparency of aid: Member States, the Commission, economic operators, and the public must have easy access to all relevant acts and to pertinent information about the aid granted thereunder.

2. Does the State aid measure entail one of the following non-severable violations of European Union law?

the obligation for the beneficiary to have its headquarters in the relevant Member State or to be predominantly established in that Member State[(5)];
the obligation for the beneficiary to use nationally produced goods or national services;
a restriction on the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States;
other non-severable violation of European Union law.

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If one of these points is answered positively, please note that in accordance with point (41) of the Guidelines such aid cannot be declared compatible with the internal market.

1. CONTRIBUTION TO A COMMON OBJECTIVE

1.1. Will the aid ensure viable food production and promote the efficient and sustainable use of resources in order to achieve intelligent and sustainable growth?

#	yes	#	no

1.2. Is the aid related closely to the Common Agricultural Policy (CAP), and consistent with the rural development objectives referred to in point (10) of the Guidelines?

#	yes	#	no

If the answer is no, please note that in accordance with point (44) of the Guidelines, such aid cannot be declared compatible with the internal market.

1.3. For agricultural products, is the aid compatible with the rules on the common organisation of the markets in agricultural products?

#	yes	#	no

If the answer is no, please note that in accordance with point (44) of the Guidelines, such aid cannot be declared compatible with the internal market.

Rural development objectives

1.4. As regards rural development like measures, can the Member State demonstrate how the aid fits into and is consistent with the relevant rural development programmes?

#	yes	#	no

If the answer is yes, this notification must be accompanied by such documentation.

Additional conditions for individually notified investment aid on the basis of a scheme

1.5. When awarding aid to individually notified investment projects on the basis of a scheme, can the granting authority confirm that the selected project will contribute towards the objectives of the scheme and thus towards the objectives of aid in the agricultural and forestry sectors and in rural areas? For that purpose, the Member State may rely on the information provided by the applicant for aid where the positive effects of the investment must be described.

#	yes	#	no

Environmental objectives

1.6. Does the State aid notification contain an assessment on whether or not the aided activity is expected to have any environmental impact?

#	yes	#	no

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1.7. Will the aid have an environmental impact?

#	yes	#	no

If the answer is yes, the Member State must provide with the notification information demonstrating that the aid will not result in an infringement of applicable Union environmental protection legislation.

1.8. Where State aid is notified, which forms part of the rural development programme, is the environmental requirement for the State aid measure identical with the environmental requirement of the rural development measure?

#	yes	#	no

If the answer is no, please note that in accordance with point (52) of the Guidelines the aid cannot be declared compatible with the internal market.

2. **APPROPRIATENESS OF AID**

2.1. Is the aid notified provided for at the same time in the relevant rural development programme?

#	yes	#	no

If the answer is yes, could the Member State demonstrate the advantages of such a national aid instrument compared to the rural development programme measure at stake?

…

…

…

2.2. As regards investment aid, which is not covered by Regulation (EU) No 1305/2013 of the European Parliament and of the Council[(6)] as part of the rural development programme or as additional financing for such a rural development measure, is the aid granted in forms that provide a direct pecuniary advantage (for example direct grants, exemptions or reductions in taxes, social security or other compulsory charges, etc.)?

#	yes	#	no

If the answer is yes, the Member State must demonstrate why other potentially less distortive forms of aid, such as repayable advances or forms of aid that are based on debt or equity instruments (for example, low-interest loans or interest rebates, State guarantees or an alternative provision of capital on favourable terms) are less appropriate.

…

…

2.3. Does the aid fall within the framework of aid to the forestry sector with ecological, protective and recreational objectives referred to in Section 2.8 of Chapter 2 of Part II of the Guidelines?