Commission Regulation (EC) No 1125/2009 of 23 November 2009 amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, as regards Part III.2, Part III.3 and Part III.7 of its Annex I

COMMISSION REGULATION (EC) No 1125/2009

of 23 November 2009

amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, as regards Part III.2, Part III.3 and Part III.7 of its Annex I

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty[(1)], and in particular Article 27 thereof,

Whereas:

(1) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty[(2)] established compulsory comprehensive State aid notification forms.

(2) Following the adoption by the Commission of the Communication on criteria for the compatibility analysis of training State aid cases subject to individual notification[(3)] and the Communication from the Commission on criteria for the compatibility analysis of State aid to disadvantaged and disabled workers subject to individual notification[(4)] it is necessary to modify part of the notification forms annexed to Regulation (EC) No 794/2004.

(3) Following the existence of an error it is necessary to modify a part of the notification form annexed to Regulation (EC) No 794/2004.

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

HAS ADOPTED THIS REGULATION:

Article 1

Part III.2 of Annex I to Regulation (EC) No 794/2004 is replaced by Annex I to this Regulation.

Article 2

Part III.3 of Annex I to Regulation (EC) No 794/2004 is replaced by Annex II to this Regulation.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 1125/2009. 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 3

Part III.7a question 2.3 and Part III.7b question 2.3 of Annex I to Regulation (EC) No 794/2004 are amended in accordance with Annex III to this Regulation.

Article 4

This Regulation shall enter into force on the day 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, 23 November 2009.

For the Commission

Neelie KROES

Member of the Commission

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EC) No 1125/2009. 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*

ANNEX I

PART III.2 SUPPLEMENTARY INFORMATION SHEET ON STATE AID FOR TRAINING

This supplementary information sheet must be used for the notification of individual aid pursuant to Article 6(1)(g) of Commission Regulation (EC) No 800/2008[(5)] and covered by the Criteria for the compatibility analysis of training State aid cases subject to individual notification (thereinafter "Criteria for the compatibility analysis")[(6)]. It must also be used in the case of any individual aid or scheme, which is notified to the Commission for reasons of legal certainty.

If there are several beneficiaries participating in the notified project, please provide the information below for each of them.

COMPATIBILITY OF AID UNDER ARTICLE 87(3)(c) OF THE EC TREATY — DETAILED ASSESSMENT

Aid for training may be considered to be compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty.

The purpose of this detailed assessment is to ensure that high amounts of aid for training do not distort competition to an extent contrary to the common interest, but rather contribute to the common interest. This happens when the benefits of State aid in terms of positive knowledge spill-over outweigh the harm for competition and trade.

The provisions below provide guidance as to the type of information the Commission may require in order to carry out a detailed assessment. The guidance is intended to make the Commission's decisions and their reasoning transparent and foreseeable in order to create predictability and legal certainty. Member States are invited to provide all the elements that they consider useful for the assessment of the case.

If there are several beneficiaries involved in the project notified as individual aid, please provide the information below for each of them.

Characteristics of the notified measure

1. Please provide a brief description of the measure specifying objective(s) of the measure, aid instrument, structure/organisation of the training, beneficiaries, budget, aid amount, payment schedule, aid intensity, and eligible costs.

2. Does the measure apply to the production and/or processing and/or marketing of the agricultural products listed in Annex I to the EC Treaty?

#	yes	#	no

3. Does the measure apply to the production, processing and/or marketing of the fisheries and/or aquaculture products listed in Annex I to the EC Treaty?

#	yes	#	no

4. Is the aid foreseen for the maritime transport sector?

#	yes	#	no

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If yes, please answer the following questions:

(a) Is the trainee not an active member of the crew but a supernumerary on board?

#	yes	#	no

(b) Shall the training be carried out on board of ships entered into Community registers?

#	yes	#	no

5. Does the notified measure relate to:

Specific training[7]:

#	yes	#	no

General training[8]:

#	yes	#	no

A combination of general and specific training:

#	yes	#	no

Training aid given to disabled or disadvantaged workers[9]:

#	yes	#	no

6. Please provide a detailed description of the training project including programme, skills to be acquired, timing, number of hours, participants, organisers, budget, etc.

7. Please provide details on the beneficiary including identity, group of which the beneficiary is a member, annual turnover, number of employees and business activities.

8. If applicable, please indicate the exchange rate which has been used for the purposes of the notification.

9. Please number all documents provided by the Member States as annexes to the notification form and indicate the document numbers in the relevant parts of this supplementary information sheet.

Objective of the aid

10. Please give a detailed description of the objectives of common interest pursued by the notified measure.

Existence of positive externalities[10]

11. Please demonstrate that the training will generate positive externalities and provide the supporting documents.

The following elements may be used for the purposes of demonstrating positive externalities. Please specify those relevant for the notified measure, and provide supporting documents:

Nature of the training
Transferability of the skills acquired during the training
Participants to the training

Appropriate instrument[11]

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12. Please explain to what extent the notified measure represents an appropriate instrument to increase training activities and provide the supporting documents.

Incentive effect and necessity of the aid[12]

In order to demonstrate the incentive effect, the Commission requires an evaluation by the Member State in order to prove that without the aid, i.e. in the counterfactual situation, the quantity or quality of the training activities would be smaller.

13. Has/have the supported project(s) started prior to the submission of the application for the aid by the beneficiary/beneficiaries to the national authorities?

#	yes	#	no

If yes, the Commission considers that the aid does not present an incentive for the beneficiary.

14. If no, specify the relevant dates:

The training project will start on:

The aid application by the beneficiary was submitted to the national authorities on:

Please provide the relevant supporting documents.

15. Please provide the beneficiary's internal documents on training costs, participants, content and scheduling for two scenarios: training project with aid and training project without aid. Please explain, on the basis of this information, how State aid increases the quantity and/or quality of the planned training activities.

16. Please confirm that there is no legal obligation for the employers to provide the training type covered by the notified measure.

17. Please provide with the beneficiary's training budgets for previous years.

18. Please explain the relationship between the training programme and business activities of the aid beneficiary.

Proportionality of the aid[13]

Eligible costs

Eligible costs must be calculated following Article 39 of Regulation (EC) No 800/2008 and limited to the extra costs necessary to achieve an increase of training activities.

19. Please specify the eligible costs foreseen for the measure

trainers' personnel costs
trainers' and trainees' travel expenses, including accommodation costs
other current expenses such as materials and supplies directly related to the project
depreciation of tools and equipment, to the extent that they are used exclusively for the training project
cost of guidance and counselling services with regard to the training project
indirect costs (administrative, rent, overheads), transport and tuition costs for participants) up to the amount of the total of the other eligible costs referred to above
trainees' personnel costs[14].