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(Acts whose publication is obligatory)

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

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 ⁽²⁾,

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 ⁽³⁾ 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 ⁽⁴⁾ (hereafter referred to as the 'agriculture guidelines'). In the light of the Commission's considerable experience in applying those Articles to small and medium-sized enterprises active in the production, processing and marketing of agricultural products, it is appropriate, with a view to ensuring efficient supervision and simplifying administration without

weakening Commission monitoring, that the Commission should make use of the powers conferred by Regulation (EC) No 994/98 also for small and medium-sized enterprises active in the production, processing and marketing of agricultural products, insofar as Article 89 of the Treaty has been declared applicable to such products. Due to the specificities of the agricultural sector, a Regulation covering only small and medium-sized enterprises active in this sector is justified.

- (4) This Regulation is without prejudice to the possibility for Member States to notify aid to small and medium-sized enterprises active in the production, processing and marketing of agricultural products. Such notifications will be assessed by the Commission in the light of this Regulation and on the basis of the agriculture guidelines. 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 Agriculture Guidelines. 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.
- (5) 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.
- (6) 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,

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.

⁽²⁾ OJ C 194, 15.8.2003, p. 2.

⁽³⁾ OJ L 10, 13.1.2001, p. 33.

⁽⁴⁾ OJ C 28, 1.2. 2000, p. 2. (Corrected version OJ C 232, 12.8.2000, p. 19.)

- 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.
- (7) The production, processing and marketing of agricultural products in the Community is largely dominated by small and medium-sized enterprises.
- (8) 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 repealing certain Regulations ⁽¹⁾ has already introduced specific State aid rules for certain rural development measures receiving Member State support without any Community financing.
- (9) 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 relevant 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.
- (10) Aid granted towards costs linked to advertising as defined by the Community guidelines for State aid for advertising of products listed in Annex I to the EC Treaty and of certain non-Annex I products ⁽²⁾ should be excluded from the scope of this Regulation and continue to be covered only by those guidelines.
- (11) 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.
- (12) 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 under the World Trade Organisation (WTO) Agreement on Subsidies and Countervailing Measures and the WTO Agreement on Agriculture. 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.
- (13) 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 laid down in Regulation (EC) No 70/2001.
- (14) 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.
- (15) 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 and aid in the form of a soft loan 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, provided that, in the case of a soft loan, the loan is backed by normal security and does not involve abnormal risks. The reference rates should be those which are 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.
- (16) 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.
- (17) 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 support measures, the ceilings should be harmonised with those fixed in the agriculture guidelines and in Regulation (EC) No 1257/1999.

⁽¹⁾ OJ L 160, 26.6.1999, p. 80.

⁽²⁾ OJ C 252, 12.9.2001, p. 5.

- (18) It is appropriate to establish further conditions that should be fulfilled by any aid scheme or individual aid exempted by this Regulation. Companies receiving investment aid should have to comply with the criteria concerning viability and respect of minimum standards provided for in Articles 5 and 26(1) of Regulation (EC) No 1257/1999. 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 normally 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 socioeconomic 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 aid which is granted solely on the basis of price, quantity, unit of production or unit of the means of production is considered to constitute operating aid which is incompatible with the common market. Furthermore, such aid is 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.
- (19) This Regulation should exempt aid to small and medium-sized enterprises regardless of location. Investment and job creation can contribute to the economic development of less favoured regions and of Objective 1 regions in the Community. Small and medium-sized enterprises in those regions 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 less favoured and Objective 1 regions should benefit from higher ceilings.
- (20) 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. Investment aid targeted at certain sectors may be justified and therefore exempted where the aid is limited to costs of the implementation of specific rules relating to the protection and improvement of the environment, the improvement of hygiene conditions of livestock enterprises or the welfare of farm animals. Investments for the processing and marketing of agricultural products undertaken at farm level, not entailing an increase in capacity and having total eligible expenses below the limit set under Article 7 of Regulation (EC) No 1257/1999, should be examined according to the rules established for investments for the production of agricultural products. On-farm investments for processing and marketing of agricultural products entailing an increase in production capacity, and/or having total eligible expenses above the limit set under Article 7 of Regulation (EC) No 1257/1999, should be examined according to the rules established for investments for the processing and marketing of agricultural products.
- (21) Where aid is granted to adapt to newly introduced standards at Community level, Member States should not be in a position 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.
- (22) Services offered at subsidised rates are often offered to farmers by companies which cannot be freely chosen by the farmer. In order to avoid aid being granted to the providers of the service, and not to the farmer, and in order to ensure that the farmer gets the best service at a competitive price, it should normally be ensured that such providers of services are chosen and remunerated according to market principles. However, for certain services, notably controls, and due to the nature of the service or the legal basis for the provision of the service, there may be only one provider.
- (23) 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 aid 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.

(24) 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.

(25) 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 1257/1999 or with Community assistance, in relation to the same eligible costs, when such cumulation exceeds the thresholds fixed in this Regulation.

(26) 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 pursuance of this Regulation, an aid scheme is implemented or an individual aid outside such schemes is granted, 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.

(27) 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.

(28) Having regard to 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 six months,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

SCOPE, DEFINITIONS AND CONDITIONS

Article 1

Scope

1. This Regulation shall apply to aid granted to small and medium-sized enterprises active in the production, processing or marketing of agricultural products.

2. This Regulation shall not apply to:

(a) aid granted towards costs linked to advertising as defined by the Community guidelines for State aid for advertising of products listed in Annex I to the EC Treaty and of certain non-Annex I products;

(b) aid granted to processing of Annex I agricultural products into non-Annex I products.

3. This Regulation shall not apply to aid for individual investments with eligible expenses in excess of EUR 12,5 million, or where the actual amount of aid exceeds EUR 6 million. Such aid shall be specifically notified to the Commission in accordance with Article 88(3) of the Treaty.

4. Without prejudice to Article 16(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 to the Treaty, except fishery and aquaculture products covered by Council Regulation (EC) No 104/2000 ⁽¹⁾;

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

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

- (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 ⁽¹⁾;
3. 'processing of an agricultural product' means an operation on an agricultural product where the product resulting from the operation is also an agricultural product;
4. 'small and medium-sized enterprises' (SME) means enterprises as defined in Annex I to Regulation (EC) No 70/2001;
5. '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;
6. 'quality product' is a product fulfilling the criteria of Article 24b(2) or (3) of Council Regulation (EC) No 1783/2003 amending Regulation (EC) 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽²⁾;
7. 'adverse climatic events which can be assimilated to natural disasters' means weather conditions such as frost, hail, ice, rain or drought which destroy 20 % of normal production in less-favoured areas and 30 % in other areas;
8. 'less-favoured areas' means areas as defined by Member States on the basis of Article 17 of Regulation (EC) No 1257/1999;
9. 'objective 1 regions' means regions referred to in Article 3 of Council Regulation (EC) No 1260/1999 ⁽³⁾;
10. 'newly introduced minimum standards regarding the environment, hygiene and animal welfare' means:
- (a) in the case of standards which do not provide for any transitional period, standards to be made compulsory vis-à-vis operators not more than two years before the investment is actually started; or
 - (b) in the case of standards which provides for a transitional period, standards to be made compulsory vis-à-vis operators after the investment has actually been started;
11. 'young farmers' means producers of agricultural products as defined in Article 8 of Regulation (EC) No 1257/1999;
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;
13. 'producer association' means an association which consists of recognised producer groups and pursues the same objectives on a larger scale.
14. 'TSE and BSE test costs' are 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 of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽⁴⁾.

Article 3

Conditions for exemption

1. 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 19(1) has been submitted and that it contains an express reference to this Regulation, by citing its title and publication reference in the *Official Journal of the European Union*.

2. 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, by citing its title and publication reference in the *Official Journal of the European Union*;
- (c) the summary information provided for in Article 19(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.

⁽¹⁾ OJ L 182, 3.7.1987, p. 36.

⁽²⁾ OJ L 270, 21.10.2003, p. 70.

⁽³⁾ OJ L 161, 26.6.1999, p. 1.

⁽⁴⁾ OJ L 147, 31.5.2001, p. 1.

CHAPTER 2

CATEGORIES OF AID

Article 4

Investment in agricultural holdings

1. Aid for investments in agricultural holdings within the Community for the production, processing and marketing 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.

2. The gross aid intensity must not exceed:

- (a) 50 % of eligible investments in less favoured areas;
- (b) 40 % of eligible investments in other regions.

In the case of investments made by young farmers within five years of setting up, the maximum aid rate shall be increased to 60 % in less-favoured areas, and 50 % 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, the maximum aid rates of 50 % and 40 % referred to in points (a) and (b) of the first subparagraph may be increased by 25 and 20 percentage points, respectively. 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 one or more of the following objectives:

- (a) reduction of production costs;
- (b) improvement and redeployment of production;
- (c) improvement in quality;
- (d) preservation and improvement of the natural environment, hygiene conditions and animal welfare standards;
- (e) promotion of the diversification of farm activities.

4. The eligible expenses may include:

- (a) the construction, acquisition or improvement of immovable property;
- (b) the purchase or lease-purchase of new machinery and equipment, including computer software up to the market value of the asset; other costs connected with a leasing

contract (tax, lessor's margin, interest refinancing costs, overheads, insurance charges, etc.) are not eligible expenditure;

- (c) general costs, such as architects, engineers and consultation fees, feasibility studies, the acquisition of patents and licences, up to 12 % of the expenditure referred to in points (a) and (b).

By way of derogation from point (b) of the first subparagraph, the purchase of second-hand equipment may be regarded as eligible expenditure in duly substantiated cases when the following conditions are met:

- (a) a declaration by the seller of the equipment confirms its exact origin and that the equipment has not already been the subject of national or Community assistance;
- (b) the purchase of the equipment represents a particular advantage for the programme or project, or is made necessary by exceptional circumstances (for example, no new equipment available on time, thus threatening proper execution of the project);
- (c) reduction of the costs involved, and therefore of the amount of aid, as compared with the costs of the same equipment purchased new, while maintaining a good cost-benefit ratio;
- (d) the second-hand equipment acquired must have the technical and/or technological characteristics necessary for the requirements of the project.

5. Aid may only be granted to viable agricultural holdings which comply with the criteria set out in Article 5 of Regulation (EC) No 1257/1999.

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

Assessment of compliance with the criteria of Article 5 of Regulation (EC) No 1257/1999 must be made at enterprise level by a public body or an independent third party, which is qualified to undertake such assessment. The rules setting up the aid scheme or the decision awarding individual aid outside such a scheme must specify how such assessment is to be made.

6. Sufficient evidence must be available that normal market outlets for the products concerned exist for the future. This must be assessed at the appropriate level determined by the Member State, in relation to the products concerned, the types of investments, and existing and expected capacities. Assessment of normal market outlets must be made by a public body or a third party, which are independent from the beneficiary of the aid and qualified to undertake such assessment. The rules setting up the aid scheme must specify how such assessment is to be made. The assessment must be based on recent data and must be made publicly available.

7. 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.

8. Unless it is limited to the costs of the implementation of specific rules relating to the protection and improvement of the environment, the improvement of hygiene conditions of live-stock enterprises or the welfare of farm animals, aid must not be limited to specific agricultural products. Aid must not be granted in respect of the following:

- (a) investment having as their effect increased production capacity, where the capacity increase on a farm amounts to more than 20 %, to be measured in livestock units for animal production and cultivated surface for plant production;
- (b) the purchase of production rights, animals, land other than land for construction purposes, plants or the planting of plants;
- (c) simple replacement investments.

9. The maximum expenses eligible for support must not exceed the limit for total investment eligible for support set by the Member State in accordance with Article 7 of Regulation (EC) No 1257/1999. Aid schemes must state this limit.

10. The aid must not be granted in respect of the following:

- (a) the manufacture and marketing of products which imitate or substitute for milk and milk products;
- (b) processing and marketing activities in the sugar sector.

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 fulfils the conditions set out in paragraphs 2 and 3.

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.

3. Aid may be granted up to 60 %, or 75 % in less favoured areas, 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.

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, 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, of the expenses relating to this increase. If the beneficiary is a young farmer, this contribution shall be at least 55 % or 45 %.

Article 7

Investment in processing and marketing

1. Aid for investment in the processing and marketing 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 7.

2. The gross aid intensity must not exceed:

- (a) 50 % of eligible investments in Objective 1 regions;
- (b) 40 % of eligible investments in other regions.

3. The eligible expenses may include:

- (a) the construction, acquisition or improvement of immovable property;
- (b) the purchase or lease-purchase of new machinery and equipment, including computer software up to the market value of the asset; other costs connected with a leasing contract (tax, lessor's margin, interest refinancing costs, overheads, insurance charges, etc.) are not eligible expenditure;
- (c) general costs, such as architects, engineers and consultation fees, feasibility studies, the acquisition of patents and licences, up to 12 % of the expenditure referred to in points (a) and (b).

By way of derogation from point (b) of the first subparagraph, the purchase of second-hand equipment may be regarded as eligible expenditure in duly substantiated cases when the following conditions are met:

- (a) a declaration by the seller of the equipment confirms its exact origin and that the equipment has not already been the subject of national or Community assistance;
- (b) the purchase of the equipment represents a particular advantage for the programme or project, or is made necessary by exceptional circumstances (for example, no new equipment available on time, thus threatening proper execution of the project);
- (c) reduction of the costs involved, and therefore of the amount of aid, as compared with the costs of the same equipment purchased new, while maintaining a good cost-benefit ratio;
- (d) the second-hand equipment acquired must have the technical and/or technological characteristics necessary for the requirements of the project.

4. Aid may only be granted to enterprises which can be demonstrated to comply with the criteria set out in Article 26(1) of Regulation (EC) No 1257/1999.

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

Assessment of compliance with the criteria set out in Article 26(1) of Regulation (EC) No 1257/199 must be made at enterprise level by a public body or an independent third party which is qualified to undertake such assessment. The rules setting up the aid scheme must specify how such assessment is to be made.

5. Sufficient evidence must be available that normal market outlets for the products concerned exist for the future. This must be assessed at the appropriate level determined by the

Member State, in relation to the products concerned, the types of investments, and existing and expected capacities. Assessment of normal market outlets must be made by a public body or a third party, which are independent from the beneficiary of the aid and qualified to undertake such assessment. The rules setting up the aid scheme must specify how such assessment is to be made. The assessment must be based on recent data and must be made publicly available.

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, but must however not be granted in respect of the following:

- (a) the manufacture and marketing of products which imitate or substitute for milk and milk products;
- (b) processing and marketing activities in the sugar sector.

Article 8

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 under the following conditions:

- (a) the criteria set out in Articles 7 and 8 of Regulation (EC) No 1257/1999 must be fulfilled;
- (b) the combined support granted under Regulation (EC) No 1257/1999 and in the form of State aid under this Article must not exceed the maximum limits provided for in Article 8(2) of that Regulation.

Article 9

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 Articles 10, 11 and 12 of Regulation (EC) No 1257/1999 must be fulfilled;
- (b) the cessation of commercial farming activities must be permanent and definitive.

*Article 10***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 fulfils the conditions set out in paragraphs 2 to 9.

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 denominations 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, common rules for placing goods on the market and 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 shall be limited to rental costs at market rates.

4. Aid must be temporary and degressive and must not exceed 100 % of eligible costs incurred in the first year. The aid level must be reduced by at least 20 percentage points for each year of operation, so that in the fifth year the amount of aid is limited to 20 % of actual eligible expenditure occurred in that year.

5. 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 by at least 30 % where this is due to the accession of new members and/or the coverage of new products.

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

7. 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.

8. The total amount of aid granted to a producer group or association under this Article must not exceed EUR 100 000.

9. 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 11***Aid towards the payment of insurance premiums**

1. Aid for insurance premiums for enterprises involved in the 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, 3 and 4.

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 losses referred to in point (a) and in addition against:
 - (i) other losses caused by climatic events; and/or
 - (ii) losses caused by animal or plant diseases.

Losses caused by adverse climatic events which can be assimilated to natural disasters must be determined on the basis of the gross production of the relevant crop in the year in question compared with the gross annual production in a normal year. Gross production must be calculated by reference to the average gross production in the previous three years, excluding any year in which compensation was payable as a result of other adverse weather conditions. In the case of damage to the means of production, the effects of which are felt over several years, the percentage real loss for the first harvest following the occurrence of the adverse event in comparison with a normal year, determined in accordance with the principles set out in this subparagraph, must exceed 10 % and the percentage real loss multiplied by the number of years in which production is lost must exceed 20 % in the less-favoured areas and 30 % in other areas.

3. The aid must be granted for the cost of insurance premiums which include cover for losses caused by adverse climatic events which can be assimilated to natural disasters.

4. 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 12

Aid for land reparation

1. Aid to enterprises involved in the 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 is granted towards and limited to the legal and administrative costs, including survey costs, of land reparation, up to 100 % of actual costs incurred.

2. Paragraph 1 shall not apply to aid for investments, including aid for land purchase.

Article 13

Aid to encourage the production and marketing of quality agricultural products

1. Aid to encourage the production and marketing 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 7.

2. Aid may be granted to cover the costs of the following 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 denominations 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;
- (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) temporary and degressive aid towards the costs of control measures undertaken during the first six years following the establishment of the control system to ensure the authenticity of denominations of origin, or certificate of specific character in the framework of Council Regulations (EEC) No 2081/92 ⁽¹⁾ and (EEC) No 2082/92 ⁽²⁾; degressivity must be at least 10 percentage points per year;
- (g) up to 100 % of actual costs incurred for controls of organic production methods conducted within the framework of Council Regulation (EEC) No 2092/91 ⁽³⁾.

3. The aid must be granted in respect of 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 denominations of origin, organic labels, or quality labels, provided these denominations and labels are in conformity with Community legislation.

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.

⁽¹⁾ OJ L 208, 24.7.1992, p. 1.

⁽²⁾ OJ L 208, 24.7.1992, p. 9.

⁽³⁾ OJ L 198, 22.7.1991, p. 1.

5. The total amount of public support granted under paragraph 2 must not exceed EUR 100 000 per beneficiary over any three-year period. For the purpose of calculating the amount of aid, the beneficiary is considered to be the person receiving the services listed in that paragraph.

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.

7. Where the choice of the provider of a service listed in paragraph 2 is not freely left to the beneficiary of the service, and unless there is only one possible provider due to the nature of the service or the legal basis for the provision of that service, such provider must be chosen and remunerated according to market principles, in a non-discriminatory way, where necessary using tendering procedures which are in accordance with Community law, and in any event using a degree of advertising sufficient to enable the services market to be opened up to competition and the impartiality of procurement rules to be reviewed.

Article 14

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, 4 and 5.

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;
 - (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, 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 competitions, exhibitions and fairs:

- (i) participation fees;
- (ii) travel costs;
- (iii) costs of publications;
- (iv) the rent of exhibition premises.

3. The total amount of public support granted under paragraph 2 must not exceed EUR 100 000 per beneficiary over any three-year period, or 50 % of the eligible costs, whichever is greater. For the purpose of calculating the amount of aid, the beneficiary is considered to be the person receiving the technical support.

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 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 costs of providing the service.

5. Where the choice of the provider of technical support is not freely left to the beneficiary of the service, such provider must be chosen and remunerated according to market principles, in a non-discriminatory way, where necessary using tendering procedures which are in accordance with Community law, and in any event using a degree of advertising sufficient to enable the services market to be opened up to competition and the impartiality of procurement rules to be reviewed.

Article 15

Support for the livestock sector

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 directly linked to 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) aid at a rate of up to 40 % of the eligible costs listed in Article 4 for investments in animal reproduction centres and 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 % towards the costs of TSE tests.

However, as far as compulsory BSE testing of bovine animals slaughtered for human consumption is concerned, total direct and indirect support, including Community payments, may 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 for testing may be based on Community or national legislation.

State aid towards the cost of TSE tests has to be paid to the operator where the samples for the tests have to be taken. However, in order to facilitate administration of such State aid, payment of the aid may be made to laboratories instead, provided that the full amount of State aid is passed on to the operator. State aid directly or indirectly received by an operator where the samples for the tests have been taken must be reflected in correspondingly lower prices charged by this operator.

- (d) aid granted by Member States fulfilling all the conditions laid down in Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common market organisation of the market in milk and milk products ⁽⁴⁾, in particular Article 14(2) thereof;
- (e) aid granted by Member States fulfilling all the conditions laid down in Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽⁵⁾, in particular Articles 6(5) and 14 thereof;
- (f) aid granted by Member States in accordance with Articles 3 and 4 of Commission Regulation (EC) No 2777/2000 of 18 December 2000 adopting exceptional support measures for the beef market ⁽⁶⁾;
- (g) aid granted by Member States in accordance with Article 6(3) second subparagraph of Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops ⁽⁷⁾;
- (h) aid granted by Member States in accordance with Article 15(6) of Council Regulation (EC) 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽⁸⁾.

CHAPTER 3

COMMON AND FINAL PROVISIONS

Article 16

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) Member State contributions fulfilling all the conditions laid down in Council Regulation (EC) No 2702/1999 of 14 December 1999 on measures to provide information on, and to promote, agricultural products in third countries ⁽¹⁾, in particular Article 9(3) thereof;
- (b) Member State contributions fulfilling all the conditions laid down in Council Regulation (EC) No 2826/2000 of 19 December 2000 on information and promotion actions for agricultural products on the internal market ⁽²⁾, in particular Article 9(2), (3) and (4) thereof;
- (c) aid granted by Member States fulfilling all the conditions laid down in Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽³⁾, in particular Article 13(4) thereof;

⁽¹⁾ OJ L 327, 21.12.1999, p. 7.

⁽²⁾ OJ L 328, 23.12.2000, p. 2.

⁽³⁾ OJ L 147, 31.5.2001, p. 1.

Article 17

Steps preceding grant of aid

1. In order to qualify for exemption under this Regulation, aid under an aid scheme 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.

If the aid scheme creates an automatic right to receive the aid, requiring no further action at administrative level, the aid itself may only be granted after the aid scheme has been set up and published in accordance with this Regulation.

If the aid scheme requires an application to be submitted to the competent authority concerned, the aid itself may only be granted 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;

⁽⁴⁾ OJ L 160, 26.6.1999, p. 48.

⁽⁵⁾ OJ L 160, 26.6.1999, p. 21.

⁽⁶⁾ OJ L 321, 19.12.2000, p. 47.

⁽⁷⁾ OJ L 160, 26.6.1999, p. 1.

⁽⁸⁾ OJ L 297, 21.11.1996, p. 1.

(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 is 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.

Article 18

Cumulation

1. The aid ceilings fixed in Articles 4 to 15 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 or by the Community covered by the second subparagraph of Article 51(1) of Regulation (EC) No 1257/1999, 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. Where a Member State grants aid covered by any of Articles 8, 10, 13 or 14 of this Regulation to an enterprise, it shall inform the enterprise that such aid is granted under the respective Article of this Regulation. The Member State shall obtain from the enterprise concerned full information about other similar aid received. For aid covered by Articles 13 and 14, the information shall be given about similar aid received during the previous three years.

The Member State may only grant the new aid after having checked that this will not raise the total amount of aid granted under any of these Articles above the total amount of aid received during the relevant period to a level above the ceiling set out in the respective Article.

Article 19

Transparency and monitoring

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

summary, the Commission shall 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 an 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. Where a Member State has set up a central register of aid separately granted under Articles 8, 10, 13 or 14 respectively, containing complete information on all such aid granted by any authority within that Member State, the requirement of the first subparagraph of Article 18(3) no longer applies from the moment the register covers a period of three years.

4. 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, in computerised form. 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.

5. As soon as an aid scheme enters into force, or an individual aid is granted outside an aid scheme exempted by this Regulation, 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 websites 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 4.

Article 20

Entry into force and applicability

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

It shall apply until 31 December 2006.

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

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 shall examine such pending notifications under the Community guidelines for State aid in the agriculture sector.

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 19(1) has been submitted before granting aid. Any aid which does not fulfil those conditions shall 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 during an adjustment period of six months following the date provided for in the second subparagraph of paragraph 1.

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

Done at Brussels, 23 December 2003.

For the Commission

Franz FISCHLER

Member of the Commission

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 1/2004

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 euro 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 16) is used and the eligible costs covered by the scheme or individual aid)

Sector(s) concerned (Indicate whether the scheme applies to production and/or processing and/or marketing. 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

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 Council 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 Council 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,
 - expenditure for relocation of farm buildings in the public interest aided,
 - aid granted for investment in processing and marketing,
 - aid granted for setting up of young farmers,
 - aid granted for early retirement,
 - expenditure of producer groups aided,
 - expenditure for insurance premiums aided,
 - expenditure for land reparation aided,
 - expenditure for the production and marketing of quality agricultural products aided,
 - expenditure for technical support aided.
 - 3.6 regional breakdown of amounts under points 3.1 either by regions defined at NUTS ⁽¹⁾ level 2 or below or by Article 87(3)(a) regions, Article 87(3)(c) regions and non-assisted regions, or by less-favoured areas 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):
 - production and/or processing and/or marketing;
 - type of animal product;
 - type of plant product.
4. Other information and remarks.

⁽¹⁾ NUTS is the nomenclature of territorial unit for statistical purposes in the Community.