



EUROPEAN COMMISSION

Brussels, 10.X.2007
C(2007)4528 final

Subject: State aid N 145/2007 - United Kingdom
Agricultural and Horticultural Development Board - Technical Support

Dear Foreign Secretary,

I have the honour to inform you that, having examined the information supplied by your authorities, the Commission has decided to raise no objection to the State aid scheme mentioned above.

In reaching this decision, the Commission based itself on the following considerations:

I. PROCEDURE

- (1) The measure was notified by letter dated 21 March 2007, registered on 21 March 2007. Additional information was received by letter of 11 June 2007, registered on 11 June 2007, by letter of 27 August 2007, registered on 27 August 2007, and by letter of 13 September 2007, registered on 13 September 2007. On 5 September 2007, a meeting took place with the UK authorities.

The Rt Hon David Miliband MP
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II. DESCRIPTION

2.1. Title

- (2) Agricultural and Horticultural Development Board - Technical Support

2.2. Budget

- (3) The annual budget will be £80.5 million; the overall budget is £483 million (€716 million). Another £65.54 million will be spent on administrative activities. According to information provided by the UK authorities, these activities are non-economic activities. Thus, the overall budget for State aid amounts to £483 million (€716 million).

2.3. Duration

- (4) 1 April 2008 until 31 March 2014

2.4. Beneficiaries

- (5) Over 1000 primary producers in the relevant sectors

2.5. Measure

- (6) The aim of the scheme, which will be administered by the new levy board and its six sector companies, is to provide technical support to the agricultural sectors covered by statutory levy. The new levy board Agricultural and Horticultural Development Board and its sector companies will transfer knowledge to those in the sectors through events, training courses, discussion groups, publications and electronic communication devices, benchmarking and competitions, and provide market information services. The scheme will cover Annex I-products, including also potatoes other than starch potatoes.¹
- (7) The scheme will apply to England, Wales and Scotland in the milk, horticulture and potato sectors, England, Wales, Scotland and Northern Ireland in the cereals and oilseeds sector, and England alone in the pig, the beef and lamb sectors.

¹ This scheme is part of the Agricultural and Horticultural Development Board package: Agricultural and Horticultural Development Board - Quality Products - State aid No N 338/2007, and Agricultural and Horticultural Development Board - Advertising - State aid No N 527/2007.

2.5.1. Change of the levy arrangements

- (8) On 1 April 2008 the new statutory levy arrangements will come into force. The current levy bodies (the British Potato Council, the Home-Grown Cereals Authority, the Horticultural Development Council, the Meat and Livestock Commission and the Milk Development Council) will be abolished and replaced by an overarching levy body and six sector companies. The new Agricultural and Horticultural Development Board will cover the cereals and oilseeds sector in the United Kingdom, the British milk, potato and horticulture sectors, and the English pig and English beef and lamb sectors. All existing levy-funded schemes (with the exception of the approved British Pig Health Scheme, State aid No N 308/2005) will therefore end when the levy board begins operating.

2.5.2. Agricultural and Horticultural Development Board and sector companies

- (9) The new overarching levy body consists of Agricultural and Horticultural Development Board, and six wholly-owned subsidiary sector companies. Agricultural and Horticultural Development Board will be a non-departmental public body in which there will be no private share capital. Financial accountability for the sector companies will rest with Agricultural and Horticultural Development Board and as a non-departmental public body, Agricultural and Horticultural Development Board will be required to lay Annual Reports and Accounts before Parliament.
- (10) Under the Companies Act, each sector company will be required to produce its own annual report and accounts. Agricultural and Horticultural Development Board will not have line management responsibility for the sector companies. Agricultural and Horticultural Development Board will report to the levy board chair who will report to the permanent secretary of Defra (Department for Environment, Food and Rural Affairs).
- (11) Agricultural and Horticultural Development Board will consist of ten members appointed by UK Ministers: the chair, three independent directors, and six members representing the sectors covered by statutory levy. The chair and three directors will be independent of the agricultural and horticultural sectors.
- (12) Agricultural and Horticultural Development Board as owner of the sector companies will appoint the sector company board members. The boards of the sector companies will have a maximum of 15 members that will include a majority of members representing the interests of farmers or growers, and at least one independent board member.
- (13) The UK authorities have given assurances that the UK government controls the expenditures of the Agricultural and Horticultural Development Board and its companies by exercising a right of approval of the business plan for all its activities.

2.5.3. Governmental and commercial activities of Agricultural and Horticultural Development Board and sector companies

- (14) Agricultural and Horticultural Development Board will collect and administer the levy on behalf of the UK government.
- (15) Agricultural and Horticultural Development Board will provide corporate services for Agricultural and Horticultural Development Board and its sector companies (human resources, administration etc.).
- (16) Technical support services may be provided by the sector companies and Agricultural and Horticultural Development Board themselves but only where appropriate. Otherwise, services may be procured from private sector organisations. Contracts will be awarded in compliance with EU procurement rules.
- (17) Agricultural and Horticultural Development Board may engage in commercial activities but such activities will be undertaken by a wholly owned commercial subsidiary company of Agricultural and Horticultural Development Board. Thus, separate accounts will be kept for such activities to prevent cross-subsidisation.

2.5.4. Administrative costs of governmental activities

- (18) According to information provided by the UK authorities, the administration of the new structure will cost around £109.5 million; this figure is subject to further savings due to the new structure.

2.5.5. The new statutory levy

- (19) The scheme will be funded by a statutory levy. Additionally, Defra, the Scottish Executive, the National Assembly for Wales, the Department for Agriculture and Rural Development in Northern Ireland and the Regional Development Agencies within the UK may provide funds from their general budgets.
- (20) The statutory levy will be collected from farmers and in some cases from the processors and dealers in the sectors covered by the levy (milk, potatoes, horticulture, cereals and oilseeds, pigmeat, beef and lamb).
- (21) The rate of levy and the method of collection of the parafiscal levy will be established by the Statutory Order.
- (22) Exporters are covered by the scheme as the gain for these producers will be the same as that for producers for the UK market. The levy will not apply to imported products.

2.5.5.1. Potato sector

- (23) The levy will be collected from any person or partnership growing three hectares or more of potatoes in any calendar year.

- (24) Further, this levy must be paid by any person who buys one thousand tonnes or more of potatoes grown in Great Britain (excluding seed potatoes) in any year based on the weight of potatoes bought (tonnage levy). Any person buying potatoes to be sold by retail or catering establishments (including fish friers) will be excluded from paying the levy unless they buy the potatoes directly from the grower. Co-operatives are exempt from paying this levy. Tonnage levy will not be payable on potatoes once they have been processed, except where they are processed by the producer. Producers of seed potatoes will pay a levy based on area planted; however, levy will not be payable at any further stage on seed potatoes.
- (25) Maximum levy rates will be as follows: £50 per hectare for growers of potatoes; £0.25 per tonne for buyers of potatoes.

2.5.5.2. Cereals and oilseeds sector

- (26) Levy will be payable on cereals (wheat, barley, oats, rye, maize and triticale) and oilseeds (rapeseed, linseed, soyabean, and sunflowerseed) grown in the United Kingdom.
- (27) Further, levy will be collected from any person in the United Kingdom who buys cereals or oilseeds grown in the United Kingdom from the grower. This will apply to all buyers, including other farmers purchasing the product directly as an alternative to buying from a merchant, as well as processors buying directly from farmers. Levy will be based on the weight of cereals or oilseeds bought, and will be collected at the point of purchase when the cereals or oilseeds are transferred to the buyer.
- (28) In the case of cereals the levy will be in two parts: the grower levy and the buyer levy.
- (29) In the case of oilseeds there will be a grower levy only.
- (30) In the case of cereals, any person who carries out industrial processes on cereals grown in the United Kingdom by way of business must pay a processor levy. The levy will be based on the weight of the cereals that are to be processed.
- (31) Cereal processors producing animal feed will pay a lower rate of levy than standard cereals processors as the value added to cereals when made into animal feed is lower than the value added when cereals are made into food for human consumption. Levy will not be collected from oilseed processors.
- (32) The maximum rate of the levy will be: 60 pence per tonne for cereal growers; 5 pence per tonne for cereal buyers; 12 pence per tonne for cereal processors producing non-feedingstuffs; 6 pence per tonne for cereal processors producing feedingstuffs; 98 pence per tonne for oilseeds growers.

2.5.5.3. The horticulture sector

- (33) A levy will be collected from any person or partnership in Great Britain who grows the horticultural products listed below.
- (34) Further, a levy will be collected from any person who sells those products grown by him or anything derived from them.
- (35) The horticultural products subject to a levy are:
- a) All vegetables grown in the open and sold for human consumption, including watercress but excluding potatoes.
 - b) All soft fruit and orchard fruit including nuts but excluding varieties of cider apples and perry pears (as certified by the levy board and/or horticultural sector company), hops and grapes.
 - c) All flowers whether cut or in pot, foliage, bulbs, corms, tubers and rhizomes.
 - d) All hardy nursery stock including:
 - Fruit trees, bushes and canes, strawberries for runner production and other fruit stock for transplanting
 - Roses (including stock for budding)
 - Shrubs and hedging plants
 - Ornamental trees and trees for sale for amenity purposes
 - Perennial herbaceous plants
 - Aquatic plants
 - e) All other nursery stock, seedlings and cuttings for propagation
 - f) All crops grown in glasshouses and other forms of protection including pot plants, bedding plants and plants being propagated for growing elsewhere.
 - g) All species of herbs
- (36) A levy will also be collected from any person who buys more than 700 litres of mushroom spawn in any year ending 31 March, and any person who buys compost containing more than 700 litres of mushroom spawn.
- (37) The maximum levy rates will be 0.75% of the adjusted sales figure for the general growers' levy, 20 pence per litre of spawn used or sold for agaricus spawn and 8 pence per litre for non-agaricus spawn.

2.5.5.4. The English pigmeat sector and the English beef and lamb sector

- (38) A levy will be payable on pigs, cattle and sheep slaughtered in slaughterhouses in England and on exports of live pigs, cattle and sheep that were reared in England.

- (39) The levy will be based on the number of animals slaughtered or exported, and will consist of two parts: the producer levy and the slaughter or export levy. The slaughterhouses or exporters will act as collection agents for the producer levy.
- (40) Levy will not be payable for animals imported from another member state and slaughtered within three months in the case of cattle and two months in the case of pigs or sheep.
- (41) The maximum rate of levy will be:
- Cattle (slaughterer or exporter) £1.75 per head
 - Cattle (producer) £5.25 per head
 - Calf (slaughterer or exporter) £0.50 per head
 - Calf (producer) £0.50 per head
 - Sheep (slaughterer or exporter) £0.60 per head
 - Sheep (producer) £0.60 per head
 - Pigs (slaughterer or exporter) £0.275 per head
 - Pigs (producer) £1.075 per head

2.5.5.5. The dairy sector

- (42) All producers of cow's milk in Great Britain will be liable to pay a levy to the milk sector company. The levy will be based on the volume in litres of liquid milk sold off-farm.
- (43) The maximum rate of levy will be 0.08 pence per litre of milk.

2.5.6. Technical support

- (44) All the measures below will be provided in the form of subsidised services and not through direct payments to primary producers. The UK authorities have given assurances that no aid will be granted to large companies.
- (45) Aid will be made available for businesses active in the processing and marketing of Annex I-products in line with Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid².
- (46) In the explanation of the individual measures, levy organisations means the Agricultural and Horticultural Development Board and/ or sector companies as appropriate.

² OJ L 379, 28.12.2006, p. 5.

2.5.6.1. Transfer of knowledge to those within the relevant sectors

- (47) Support to primary producers should be provided as preferential service in the form of knowledge transfer in order to improve the efficiency, sustainability and skills of the sectors concerned.

a) Conferences, seminars and other meetings

- (48) The levy organisations as providers of preferential services will arrange conferences, seminars and other meetings to provide primary producers with new information, advice and guidance on subject areas. Topics include technical information involving new business techniques, production, marketing, exporting, environmental animal health or plant health technologies. Industry forums for presentation, review and discussion of new subject matter will also be arranged with researchers, stakeholders and supply chain technical staff. Supply chain meetings might be used by levy organisations to communicate with their levy payers.
- (49) Eligible costs: All or part of participation fees that cover the actual costs of organising the meetings, including venue and equipment hire, speakers' fees and travel and subsistence costs of the meeting organisers and speakers; travel and subsistence costs of participants; costs of publications.
- (50) Aid will be provided for businesses active in the processing and marketing of Annex I products in line with Regulation 1998/2006 (*de minimis* aid).
- (51) Events may be targeted at specific sectors and eligibility is based on objective criteria. Places at events will be awarded on the basis of first come, first served.

b) Competitions

- (52) The levy organisations as providers of preferential services will run competitions to encourage uptake of new best practice. Winners will be chosen according to objectively defined rules. Prizes will be symbolic, for example, in the form of plaques and certificates; alternatively technical prizes may be given.
- (53) Eligible costs: Full or part participation fees covering the actual costs of organising the competitions, including competition design, processing of entries, judging, and the holding of award ceremonies; symbolic prizes with a value of no more than €250 per prize and winner.
- (54) Aid for businesses active in the processing and marketing of Annex I products will be provided in line with Regulation 1998/2006 (*de minimis* aid).

c) Fairs and sectoral events

- (55) The levy organisations as providers of preferential services will organise or support fairs and sector events to transfer knowledge to levy payers. Support may include costs for speakers to transfer knowledge to stakeholders at the fair or the event.
- (56) Support for advertising activities is excluded.

- (57) Eligible costs: Travel and subsistence costs of levy board staff, board and committee members, and speakers; speakers' fees; costs of publications; rental of premises, including costs of demonstration facilities and equipment.
- (58) Aid for businesses active in the processing and marketing of Annex I products will be provided in line with Regulation 1998/2006 (*de minimis* aid).
- (59) Guidance and information at fairs and exhibitions will be made available to all interested parties without selection.

d) Outreach through clubs and discussion groups

- (60) The levy organisations as providers of preferential services will use clubs and discussion groups with participants being present physically or electronically (e.g. through conference calls) as a way of transferring knowledge to stakeholders. Topics will include strategic planning, new business techniques, understanding the market and supply chain, aid to production technology and efficiency, and improving environmental, plant and crop or animal welfare performance.
- (61) Eligible costs: All or part of participation fees covering the actual costs of organising the meetings, including venue and equipment hire, speakers' fees and travel and subsistence costs of the meeting organisers and speakers; travel costs of participants; costs of publications.
- (62) Aid for businesses active in the processing and marketing of Annex I products will be provided in line with Regulation 1998/2006 (*de minimis* aid).
- (63) Interested parties can propose the establishment of a new club or the levy board/sector company will set up a club and invite members. Clubs may be targeted at specific sectors or interests within a sector, such as breed, and may be divided on the basis of geographical area, but any and all businesses within that grouping, if any, will be eligible to participate. Membership of clubs will be awarded on a first come, first-served basis for eligible applicants.

2.5.6.2. Training events and workshops

- (64) The levy organisations as providers of preferential services will organise training events open to stakeholders at all levels, for example, veterinarians, professional advisors, farm managers and staff. Topics will include business techniques (such as risk management), information on different technologies such as production methods, plant and animal welfare and environmental technologies.
- (65) The levy organisations as providers of preferential services will co-host industry open days for specific sub-sectors with delivery partners (business or organisation within the supply chain, including processors, purchasers, packers, retailers, veterinary surgeons, merchants, farming unions and research institutions).
- (66) Aid for businesses active in the processing and marketing of Annex I products will be provided in line with Regulation 1998/2006 (*de minimis* aid).

- (67) Eligible costs: costs of organising the training programme; travel and subsistence costs of participants.
- (68) Events may be targeted at specific sectors and eligibility is based on objective criteria. Places at events will be awarded on a first come, first served basis.

2.5.6.3. Benchmarking and best practice

- (69) The levy organisations as providers of preferential services will be involved in benchmarking and best practice schemes that will allow primary producers to improve their financial and technical performance and to make comparisons with other businesses. Benchmarking involves obtaining a set of data relating to each of a number of operators, analysing their data and establishing the relative position of the beneficiary of the service against other operators in order to identify strengths and weaknesses. Best practice comprises schemes such as value chain analysis aimed at improving the efficiency of supply chains, and master classes aimed at improving processes in levy payers' businesses.
- (70) Eligible costs: consultancy services for data collection and analysis, diagnostic reports, training support (costs of organising the training programme; travel and subsistence costs of participants).
- (71) Aid for businesses active in the processing and marketing of Annex I products will be provided in line with Regulation 1998/2006 (*de minimis* aid).
- (72) Benchmarking and best practice programmes may be targeted at specific sectors, but all businesses within that sector will be eligible to participate. Where benchmarking takes place online, there may be no selection at all. Otherwise, selection will be on a first come, first served basis, subject to any restriction necessary to ensure that the benchmarking is representative of the range of participants or the sectors.
- (73) Support may be targeted at specific sectors and eligibility is based on objective criteria. Places at events will be awarded on a first come, first served basis.

2.5.6.4. General information and communications

- (74) The levy organisations as providers of preferential services will provide general communications, including market information and statistics to the beneficiaries. The information will include market reports and analysis for particular sectors (including in-season crop and price information), supply and demand updates, planting surveys, livestock production, consumption of products, consumer attitudes to the products and consumer trends as well as information on imports and exports and prices by species.
- (75) The companies in the pig and beef and lamb sector will develop and transfer knowledge from their involvement with research centres and strategies. This will include the pig sector company's involvement with a university-based Pig Development Centre, which serves as a conduit between organisations, vets and producers to demonstrate and disseminate information on pig production. The

pig sector company will also be continuing with the BPEX British Pig Health and Welfare Strategy, including the approved British Pig Health Scheme (N 308/2005).

- (76) Communication will be general (i.e. not tailored to individual businesses) and made available to all interested parties, including those in other Member States.
- (77) Support for businesses active in the processing and marketing of Annex I products will be provided in line with Regulation 1998/2006 (*de minimis* aid).

a) Publications and newsletters

- (78) As providers of preferential services the levy organisations will prepare and distribute material offering advice and guidance or providing an update on issues in their particular sector. This is likely to include regular newsletters or bulletins as well as full scientific reports or report summaries that communicate the results of research and development projects relating to business and production techniques, improved environmental performance and improved animal or plant health. The levy organisations will also produce topic-specific advice sheets for growers or livestock producers and topic-specific guides to decision making. Materials will be provided on paper or electronically.

b) Electronic dissemination of knowledge

- (79) The levy organisations as providers of preferential services will use websites, e-mail, TV, SMS, text messaging, teletext pages etc. to communicate information to stakeholders. The websites will contain details of the levy board's and the sector companies' work, information, industry statistics, guidance notes and publications.

c) Data dissemination and maintenance

- (80) The levy organisations as providers of preferential services will collect and disseminate market information and statistics. They will make the information available on the web and through newsletters, periodic press releases and reports on various aspects of the different sectors' statistics. Other ways of disseminating the information and statistics will be through statistical compendiums, special articles on consumer demand trends in specific product areas, including those in export markets, and regular reviews of the UK, EU and international market situation and outlook for the various sectors.
- (81) Market information and statistics will also be disseminated to primary producers during seminars, meetings, and promotional events, while sector companies are likely to organise presentations and talks based on the statistical information. Other methods of disseminating market information and statistics include teletext, telephone answering services, fax and SMS messaging.

d) Vulgarisation of scientific knowledge

- (82) Support should be provided for the dissemination of specialised or tailored market information and statistics, on the workings of the industry, strategic business planning etc. via websites with restricted pages.

- (83) Access will be made available on request to all businesses concerned in the relevant sector on request and may be limited to a particular geographical area on the basis of objective criteria.

2.5.7. Use of names, logos and quality marks of the Agricultural and Horticultural Development Board and sector companies

- (84) The UK authorities have submitted the names and logos of Agricultural and Horticultural Development Board and the sector companies that may be used in the provision of technical support:



Figure 1: Agriculture and Horticulture Development Board



Figure 2: EBLEX Ltd - Beef and lamb sector company



Figure 3: BPEX Ltd - Pig sector company



Figure 4. Horticultural Development Company Ltd - Horticultural sector company



Figure 5: HGCA Ltd - Cereals and oilseeds sector company

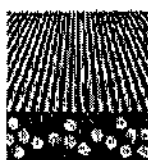


Figure 6: Potato Council Ltd - Potato sector company

The logo for the milk sector company "Dairyco Ltd" has not yet been decided but will follow the style of the other logos.

- (85) The UK authorities have given assurances that any references to the names and logos will remain a subsidiary message to the main communication. The layout style of such materials will not be used for advertising purposes. No reference will be made to individual companies, brands or origin in the activities.
- (86) The UK authorities have provided information and given assurances that the quality standard marks will be used as follows:
 - a) in non-advertising promotional activity for consumers and stakeholders (e.g. leaflets, fliers or websites that provide nutritional information about beef, lamb and pork and tips for storing and cooking meat);
 - b) in technical information to stakeholders in the beef, lamb or pork food chains.
- (87) The origin of the quality products will be mentioned as a subsidiary message. Where the products are promoted to consumers using leaflets, fliers or websites, the overall messages covered will be generic; any quality standard marks will not be a prominent feature and will be subsidiary in relation to the overall message; they will be placed at the edge of the page or elsewhere as appropriate. Logos will be used in a similar way in any technical information supplied to stakeholders.
- (88) The use of names and logos of Agricultural and Horticultural Development Board and the sector companies and of the quality standard marks in advertising will be covered by the notified State aid scheme No N 529/2007 - Agriculture and Horticulture Development Board - Advertising.
- (89) The quality standard marks will be used on the packaging of pre-packed beef, lamb and pork products that are sold in supermarkets. The logos will be obvious

to consumers, but will not interfere with the overall labelling of the product. No state aid whatsoever will be provided.

2.6. Legal basis

- (90) Sections 87, 88, 89, 90, 91, 93, 94, 96 and 97 of the Natural Environment & Rural Communities Act 2006
- (91) (Proposal) The [Levy Board UK] Order 2007
- (92) Part I, section 5 (2)(a) of the Regional Development Agencies Act 1998
- (93) Chapter 35, Part I, section 4 of the Enterprise and New Towns (Scotland) Act 1990.

2.7. Aid intensity

- (94) Up to 100%

III. EVALUATION

- (95) Under Article 87(1) of the EC Treaty, aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is prohibited, insofar as it affects trade between Member States. It is obvious that there is substantial crossborder trade in agricultural products.³
- (96) The aid measure is financed by a parafiscal levy raised by the Agricultural and Horticultural Development Board. Therefore, it has to be qualified as being granted through State resources.
- (97) The aid measure favours certain primary producers in the agriculture sector in the United Kingdom. It is therefore liable to distort competition and to affect trade between Member States.
- (98) Therefore, Article 87(1) of the EC Treaty applies.
- (99) According to Article 87(3)(c) of the EC Treaty, aid to facilitate the development of certain economic activities or of certain economic areas can be regarded as compatible where such aid does not adversely affect trading conditions to an extent contrary to the common interest. Concerning this aid, point 103 of the Community guidelines for State aid in the agriculture and forestry sector 2007-

³ Trade in agricultural products of the United Kingdom with other Member States in 2005: imports €25 604 million, exports €9 933 million (source: Eurostat).

2013 (hereinafter: Community Agriculture Guidelines)⁴ referring to Article 15 of Commission Regulation (EC) No 1857/2006 of 15 December 2006 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 of agricultural products⁵ applies.

- (100) Only small and medium-sized enterprises are eligible for this aid. Support for companies active in the processing and marketing of Annex I-products will be granted under Regulation 1998/2006.

3.1. Agricultural and Horticultural Development Board

- (101) The activities of the Agricultural and Horticultural Development Board involve administrative activities – collection of levies, policy development and implementation of State aid measures – and project management – technical support, encouraging the development of quality products and advertising.
- (102) The Commission has consistently held that administrative activities are to be regarded as a non-economic activity, because a part of State activity is outsourced and there is no intention to offer goods or services on a certain market.⁶ Therefore, this activity must not be assessed under the competition law of the EC Treaty.
- (103) Project management activities of the Agricultural and Horticultural Development Board are to be regarded as an economic activity. The UK authorities have given assurances that related overheads will be included in the calculation of aid to the beneficiaries.
- (104) This decision in no way prejudices any further analysis by the Commission as far as respect for public procurement rules is concerned.

3.2. Agricultural and Horticultural Development Board parafiscal levy

- (105) The scheme is financed by Agricultural and Horticultural Development Board parafiscal levies, with some grants from government and its agencies. The Agricultural and Horticultural Development Board levy is charged on domestic production. In general, it is not charged on imported goods with the exception of imported live animals only after a three-month period of stay in the UK (sheep: two months). The levy is charged on exported goods.

⁴ OJ C 319, 27.12.2006, p. 1.

⁵ OJ L 358, 16.12.2006, p. 3.

⁶ See e.g. N 175/2003 – United Kingdom - MLC Generic Advertising Scheme or N 230/2003 – United Kingdom (Scotland) - Meat Quality Advertising Scheme.

(106) Parafiscal levies are considered as discriminatory internal taxation prohibited by Article 90 of the EC Treaty if and to the extent to which charges imposed on the products produced and processed on the national market are only partially compensated by advantages deriving from the use made of its revenue and thereby disadvantaging exported domestic products.⁷ The levy is charged at the point of production, sale, slaughter or export excluding imported goods. The UK authorities have provided information to the effect that exporters receive a benefit proportionate to that obtained by operators processing or marketing on the national UK market.

(107) Therefore, based on the information provided by the UK authorities, the financing of this scheme by means of an Agricultural and Horticultural Development Board parafiscal levy does not give rise to any objections.

3.3. Technical support

- (108) Aid for technical support is considered by the Commission as "soft aid" which contributes to the long term viability of agriculture in the Community while producing only very limited effects on competition. According to point 103 of the Community Agriculture Guidelines referring to Article 15 of Regulation 1857/2006, such aid may be granted at a rate of 100% of costs for primary producers (farmers). For the purpose of calculating the amount of aid, the person receiving the services is considered to be the beneficiary.
- (109) The aid must be granted as a service on preferential terms and must not involve direct payments to producers (point 103 of the Community Agriculture Guidelines referring to Article 15(3) of Regulation 1857/2006). The UK authorities have given these commitments.
- (110) The aid must be accessible to all those eligible in the area concerned, based on objectively defined conditions. If the provision of services is undertaken by producer groups or agricultural mutual organisations, membership of such organisations must not be a condition for access to the service and any contribution to the administrative costs must be limited to the proportional costs of providing the service (point 103 of the Community Agriculture Guidelines referring to Article 15(4) of Regulation 1857/2006). The UK authorities have given these commitments.
- (111) The United Kingdom authorities have given assurances that the aid scheme will be available to all eligible farmers and food processors in the area concerned on the basis of objectively defined conditions.
- (112) Support for businesses active in the processing and marketing of agricultural products will be given under Regulation 1998/2006 (*de minimis* aid).

⁷ Case C-234/99, *Nygård* [2002] ECR I-3657.

3.3.1. Transfer of knowledge to those within the relevant sectors

- (113) Under point 103 of the Community Agriculture Guidelines referring to Article 15(1)(d) of Regulation 1857/2006, aid amounting to up to 100% may be granted for the organisation of and participation in forums to share knowledge between businesses, competitions, exhibitions and fairs. Eligible costs are participation fees, travel costs, costs of publications, the rent of exhibition premises, symbolic prizes awarded in the framework of competitions, up to a value of €250 per prize and winner.
- (114) Eligible costs for conferences, seminars, other meetings, competitions, fairs and sectoral events, outreach through clubs and discussions groups as described in section 2.5.6.1 above are covered by point 103 of the Community Agriculture Guidelines referring to Article 15(2) (d) of Regulation 1857/2006.
- (115) Therefore, the conditions of point 103 of the Community Agriculture Guidelines are met.

3.3.2. Training events and workshops

- (116) According to point 103 of the Community Agriculture Guidelines referring to Article 15(2)(a) of Regulation 1857/2006, aid with an aid intensity of up to 100% may be granted for education and training of farmers and farm workers. Eligible costs are the costs of organising the training programme, travel and subsistence expenses of participants and costs of the provision of replacement services during the absence of the farmer or the farm worker.
- (117) Eligible costs for training as described in section 2.5.6.2 above are covered by point 103 of the Community Agriculture Guidelines referring to Article 15(2)(a) of Regulation 1857/2006.
- (118) Therefore, the conditions of point 103 of the Community Agriculture Guidelines are met.

3.3.3. Benchmarking and best practice

- (119) According to point 103 of the Community Agriculture Guidelines referring to Article 15(2)(c) of Regulation 1857/2006, aid with an aid intensity of up to 100% may be granted for consultancy services provided by third parties. The consultancy fees shall not be for services that constitute a continuous or periodic activity or relate to the enterprise's usual operating expenditure, such as routine tax consultation services, regular legal services or advertising.
- (120) Eligible costs for benchmarking and best practice as described in section 2.5.6.3 above are covered by point 103 of the Community Agriculture Guidelines referring to Article 15(2)(c) of Regulation 1857/2006.
- (121) Therefore, the conditions of point 103 of the Community Agriculture Guidelines are met.

3.3.4. General information and communications

- (122) According to point 103 of the Community Agriculture Guidelines referring to Article 15(2)(e) of Regulation 1857/2006, aid with an aid intensity of up to 100% may be granted for the vulgarisation of scientific knowledge, factual information on quality systems, general products or on the nutritional benefits of generic products or recipes, provided that individual companies, brands or origins are not named.
- (123) Eligible costs for general information and communications as described in section 2.5.6.4 above are covered by point 103 of the Community Agriculture Guidelines referring to Article 15(2)(e) of Regulation 1857/2006.
- (124) Therefore, the conditions of point 103 of the Community Agriculture Guidelines are met.

3.3.5. Use of names, logos and quality marks of the Agricultural and Horticultural Development Board and sector companies

- (125) Names, logos and quality marks of the Agricultural and Horticultural Development Board and sector companies are used in general information and communication, benchmarking and best practice activities, training events and workshops, or knowledge transfer activities.
- (126) Point 103 referring to Article 15(e) and (f) of Regulation 1857/2006 provides that factual, objective information can be disseminated on quality products, generic products and on the nutritional benefits of generic products and suggested uses. No references to individual companies, brands or origin are allowed with the exception of publications such as catalogues or websites with factual information about producers or products, provided that the information and presentation is neutral and all producers concerned have equal opportunities to be represented in the publication.
- (127) Article 28 of the EC Treaty states that quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States. Technical support for home-grown products might be considered as such an equivalent measure if origin is the primary message of the promotion measure.
- (128) Promotion measures where origin is the secondary message do not infringe Article 28 of the EC Treaty. Thus, any reference to the origin in the form of names, logos and quality marks of the Agricultural and Horticultural Development Board and sector companies must be the secondary message.
- (129) A reasonable balance is struck between promotion measures and references to the origin of the products via names, logos and quality marks of the Agricultural and Horticultural Development Board and sector companies. The Commission notes that the names and logos do not contain *prima facie* a message of origin. The UK authorities have given commitments that names, logos and quality marks will be subsidiary in relation to the overall message. The size of the

names, logos and quality marks of the Agricultural and Horticultural Development Board and sector companies will be reasonably small and, if possible, be placed at the edge of a page. In information on quality marks, the origin will be mentioned as a subsidiary message. Further, the layout style of such materials will not be reused for advertising purposes. Thus, any references to the names and logos will remain a subsidiary message of the main communication.

- (130) Therefore, the conditions of point 103 of the Community Agriculture Guidelines are met.

IV. DECISION

- (131) The measure complies with the Community guidelines for state aid in the agriculture and forestry sector 2007-2013. The Commission has accordingly decided that the aid is compatible with Article 87(3)(c) of the EC Treaty. Measures covering businesses active in the processing and marketing of agricultural products are covered by Regulation 1998/2006.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to disclosure to third parties and to publication of the full text of the letter in the authentic language on the Internet site http://ec.europa.eu/community_law/state_aids/

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Agriculture and Rural
Development
Directorate H
Office: Loi 130 5/98A
B-1049 Brussels
Fax No.: 0032.2.296 7672

Yours faithfully,
For the Commission



CERTIFIED COPY
For the Secretary General

[Signature]
JURIS AYET PULGARIN
Director of the Registry

Mariann FISCHER BOEL
Member of the Commission