ANNEX XV

STATE AID

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Acts of which the EC Commission and the EFTA Surveillance Authority Shall Take Due Account
Appendix

List provided for in Article 63

INTRODUCTION

When the acts referred to in this Annex contain notions or refer to procedures which are specific to the Community legal order, such as
- preambles;
- the addressees of the Community acts;
- references to territories or languages of the EC;
- references to rights and obligations of EC Member States, their public entities, undertakings or individuals in relation to each other; and
- references to information and notification procedures;

Protocol 1 on horizontal adaptations shall apply, unless otherwise provided for in this Annex.

SECTORAL ADAPTATIONS({1})

The arrangements regarding the existing aid schemes set out in Chapter 3 (Competition policy) of Annex IV to the Act of Accession of 16 April 2003 shall apply between the Contracting Parties.

{1}The arrangements regarding the existing aid schemes set out in Chapter 2 (Competition policy) of Annex V to the Act of Accession of 25 April 2005 shall apply between the Contracting Parties.

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The arrangements regarding the existing aid schemes set out in Chapter 2 (Competition policy) of Annex IV to the Act of Accession of 9 December 2011 shall apply between the Contracting Parties.

TRANSITION PERIOD

The transitional arrangements set out in the Annexes to the Act of Accession of 25 April 2005 for Romania (Annex VII, Chapter 4), shall apply.

ACTS REFERRED TO

Public undertakings

1.\(^{(3)}\) [ ]


The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The term "Commission" shall read "competent surveillance authority as defined in Article 62 of the EEA Agreement".

(b) The term "trade between Member States" shall read "trade between Contracting Parties".

Aid to the steel industry\(^{(7)}\)

1aa. [ ] \(^{(8)}\)

Aid to shipbuilding\(^{(9)}\)


\(^{(9)}\) Point (Commission Decision No 21/95 (OJ L 158, 8.7.1995, p. 43 and EEA Supplement No 25, 8.7.1995, p.10), e.i.f. 1.5.1995.
1b. [ ] {10}


The provisions of the Regulation shall for the purposes of the present Agreement, be read with the following adaptations:

(a) "Article 92 of the Treaty" shall read "Article 61 of the EEA Agreement",

(b) "Article 93 of the Treaty" shall read "Article 62 of the EEA Agreement";

(c) In Article 7(1) and 7(2) the term "compatible with the common market" shall read "compatible with the functioning of this Agreement";

(d) In Article 7(1) the second sentence shall not apply;

(e) In Article 7(2) the second sentence shall not apply;

(f) Article 7(3) shall not apply.

1ca. [ ] {13}

1d. [ ] {14}

De minimis aid

1e. [ ] {15}


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The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The following shall be added in Article 1(1): “The Regulation shall not apply to sectors not covered by Articles 61 to 64 of the EEA Agreement.”;

(b) The words “Article 107(1) of the Treaty” shall read “Article 61(1) of the EEA Agreement”;

(c) The words “Article 108(3) of the EC Treaty” shall read “Article 1(3) of Protocol 3 to the Surveillance and Court Agreement”.

1f.\[17\]  

1g.\[19\]  

1h.\[20\]  

**19 Services of general economic interest**

32012 D 0021: Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3).

The provisions of the Decision shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The term “Commission” shall read “competent surveillance authority as defined in Article 62 of the EEA Agreement”;

(b) The words “compatible with the internal market” shall read “compatible with the functioning of the EEA Agreement”;

(c) The term “Member State” shall read “EU Member State or EFTA State”. The term “Member States” shall read “EU Member States or EFTA States”;

(d) In Articles 1 and 2(3), the term “Article 108(3) of the Treaty” shall read “Article 1(3) of Protocol 3 to the Surveillance and Court Agreement”;

(e) In Article 2, the term “Article 106(2) of the Treaty” shall read “Article 59(2) of the EEA Agreement”;

(f) In Article 3, the term “Article 108(3) of the Treaty” shall read “Article 1(3) of Protocol 3 to the Surveillance and Court Agreement”;

(g) In Article 5, the term “Article 107 of the Treaty” shall read “Article 61 of the EEA Agreement”.

1ha.\[21\]  


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\[21\] Point and adaptation text inserted by Decision No 225/2012 (OJ L 81, 21.3.2013, p. 27 and EEA Supplement No 18, 21.3.2013, p. 32), e.i.f. 8.12.2012.
The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 1(1), the words “Article 106(2) of the Treaty” shall read “Article 59(2) of the EEA Agreement”.

(b) The following shall be added in Article 1(2):

“The Regulation applies only to sectors covered by Articles 61 to 64 of the EEA Agreement.”

(c) In Article 2(1), the words “Article 107(1) of the Treaty” shall read “Article 61(1) of the EEA Agreement”.

(d) In Article 2(1), the words “Article 108(3) of the Treaty” shall read “Article 1(3) of Protocol 3 to the Surveillance and Court Agreement”.

1i.\(^{(22)}\)

\(^{(22)}\) Aid to small and medium-sized enterprises, research, development, innovation, environmental protection, regional investments, female entrepreneurship, employment and training

1j.\(^{(24)}\)


\(^{(25)}\) Indent and words “as amended by:” added by Decision No 185/2017 (OJ L [to be published]) and EEA Supplement No [to be published]), e.i.f. 23.9.2017. Corrigendum to the EU act subsequently taken note of by the EEA Joint Committee on 6.7.2018.


(h) The term “Member State” shall read “EU Member State or EFTA State”. The term “Member States” shall read “EU Member States or EFTA States”;

(i) The term “Commission” shall read “competent surveillance authority as defined in Article 62 of the EEA Agreement”;

(j) The term “Annex I to the Treaty” shall read “listed in the Appendix to this Annex and covered by the scope of the EEA Agreement”;

(k) The term “Union registers” shall read “registers in the territories covered by the EEA Agreement”;

(l) The term “Union funding” shall read “Union or EEA funding”;

(m) The term “Union law” shall read “the EEA Agreement”;

(n) References to Union legislation do not imply that the EFTA States are obliged to comply with the Union legislation when such legislation has not been incorporated into the Agreement.

**ACTS OF WHICH THE EC COMMISSION AND THE EFTA SURVEILLANCE AUTHORITY SHALL TAKE DUE ACCOUNT**

In the application of Articles 61 to 63 of the Agreement and the provisions referred to in this Annex, the EC Commission and the EFTA Surveillance Authority shall take due account of the principles and rules contained in the following acts:

{26} In accordance with Section General Paragraph II, corresponding Acts to the Acts adopted by the EC Commission after 31 July 1991 to complement or replace the Acts adopted before 31 July 1991 that were initially listed under this heading are adopted by the EFTA Surveillance Authority in order to maintain equal conditions of competition but are not included in this Annex.

**Scrutiny by the Commission**

_Prior notification of State aid plans and other procedural rules_

2. [ ] {27}

3. [ ] {28}

4. [ ] {29}

5. [ ] {29}

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{26} Footnote added by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.l.f. 16.12.2017.


6. \{\ref{31}\}

7. \{\ref{32}\}

\textbf{Evaluation of aid of minor importance}

8. \{\ref{33}\}

\textbf{Public authorities’ holdings}

9. \{\ref{34}\}

\textbf{Aid granted illegally}

10. \{\ref{35}\}

\textbf{State guarantees}

11. \{\ref{36}\}

12. \{\ref{37}\}

\textbf{Frameworks on sectoral aid schemes}

\textit{Textile and clothing industry}

13. \{\ref{38}\}

14. \{\ref{39}\}

\begin{flushright}
\footnotesize


\textsuperscript{(34)} Point 9 (Application of Articles 92 and 93 of the EEC Treaty to public authorities’ holdings) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.


\textsuperscript{(36)} Point 11 (Letter from the Commission to the Member States SG(89) D/4328 deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

\textsuperscript{(37)} Point 12 (Letter from the Commission to the Member States SG(89) D/12772) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

\textsuperscript{(38)} Point 13 (Commission communication to the Member States on the Community framework on aid to the textile industry) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

\end{flushright}
Synthetic fibres industry

15. [ ] (40)

Motor vehicle industry

16. [ ] (41)

17. [ ] (42)

Frameworks on general systems of regional aid

18. [ ] (43)

19. [ ] (44)

20. [ ] (45)

21. [ ] (46)

22. [ ] (47)

23. [ ] (48)

24. [ ] (49)

25. [ ] (50)

(40) Point 15 (Commission communication on aid to the EEC synthetic fibres industries) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(41) Point 16 (Community framework on State aid to the motor-vehicle industry) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(42) Point 17 (Community framework on State aid to the motor-vehicle industry) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(43) Point 18 (Council Resolution of 20 October 1971 on general systems of regional aid) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.


(45) Point 20 (Commission communication to the Council on general regional aid systems) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(46) Point 21 (Commission communication of 21 December 1978 on regional aid systems) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(47) Point 22 (Commission communication on the method for the application of Article 92(3)(a) and (c) to regional aid) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.


(49) Point 24 (Commission communication on the method of application of Article 92(3)(c) to regional aid) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(50) Point 25 (Commission communication on the method of application of Article 92(3)(a) to regional aid) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.
Horizontal frameworks

Community framework on State aid in environmental matters

26. [ ] (51)
27. [ ] (52)
28. [ ] (53)
29. [ ] (54)

Community framework on State aid to research and development

30. [ ] (55)
31. [ ] (56)

Rules applicable to general aid schemes

32. [ ] (57)
33. [ ] (58)

Rules applicable to cases of cumulation of aid for different purposes

34. [ ] (59)

Aid to employment

(51) Point 26 (Letter from the Commission to the Member States S/74/30.807 of 7 November 1974) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(52) Point 27 (Letter from the Commission to the Member States SG(80) D/8287 of 7 July 1980.) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(53) Point 28 (Commission communication to the Member States (Annex to the letter of 7 July 1980)) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(54) Point 29 (Letter from the Commission to the Member States SG(87) D/3795) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(55) Point 30 (Community framework for State aids for research and development) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(56) Point 31 (Letter from the Commission to the Member States SG(90) D/01620) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(57) Point 32 (Letter from the Commission to the Member States SG(79) D/10478) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(58) Point 33 (Control of aid for rescue and restructuring (Eighth Report on Competition Policy, point 228)) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

Control of aid to the steel industry

I. As regards EEA relevant acts adopted by the EC Commission after 31 July 1991, the EFTA Surveillance Authority, in accordance with the powers vested in it under the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, is to adopt, after consultation with the EC Commission, corresponding acts in order to maintain equal conditions of competition. The acts adopted by the Commission will not be integrated into this Annex. In their publication in the Official Journal of the European Communities indication will be given as to their relevance for the EEA and a reference to this publication will be made in the EEA Supplement to the Official Journal. The corresponding acts adopted by the EFTA Surveillance Authority are to be published in the EEA Supplement to, and the EEA Section, of, the Official Journal. In the application of Articles 61 to 63 of the Agreement and the provisions referred to in this Annex, the EC Commission and the EFTA Surveillance Authority shall take account of the principles and rules contained in these acts.

APPENDIX

List of products referred to in points 1e (d) and 1j (j) of Annex XV

<table>
<thead>
<tr>
<th>Number in the Brussels nomenclature</th>
<th>Description of products</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter 1 Live animals</td>
<td></td>
</tr>
<tr>
<td>Chapter 2 Meat and edible meat offal</td>
<td></td>
</tr>
<tr>
<td>Chapter 3 Fish, crustaceans and molluscs</td>
<td></td>
</tr>
</tbody>
</table>

(60) Point 35 (Sixteenth Report on Competition Policy, point 253) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(61) Point 36 (Twentieth Report on Competition Policy, point 280) deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(62) Point 37 (Framework for certain steel sectors not covered by the ECSC Treaty deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.


(64) Text contained in paragraph I under heading ‘GENERAL’ deleted by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

(65) The last sentence in paragraph II under heading ‘GENERAL’ replaced by Decision No 244/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.


<table>
<thead>
<tr>
<th>Number in the Brussels nomenclature</th>
<th>Description of products</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter 4</td>
<td>Dairy produce; birds' eggs; natural honey</td>
</tr>
<tr>
<td>Chapter 5</td>
<td>Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof</td>
</tr>
<tr>
<td>05.04</td>
<td>Animal products not elsewhere specified or included; dead animals of Chapter 1 or Chapter 3, unfit for human consumption</td>
</tr>
<tr>
<td>Chapter 6</td>
<td>Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage</td>
</tr>
<tr>
<td>Chapter 7</td>
<td>Edible vegetables and certain roots and tubers</td>
</tr>
<tr>
<td>Chapter 8</td>
<td>Edible fruit and nuts; peel of melons or citrus fruit</td>
</tr>
<tr>
<td>Chapter 9</td>
<td>Coffee, tea and spices, excluding maté (heading No 09.03)</td>
</tr>
<tr>
<td>Chapter 10</td>
<td>Cereals</td>
</tr>
<tr>
<td>Chapter 11</td>
<td>Products of the milling industry; malt and starches; gluten; inulin</td>
</tr>
<tr>
<td>Chapter 12</td>
<td>Oil seeds and oleaginous fruit; miscellaneous grains, seeds and fruit; industrial and medical plants; straw and fodder</td>
</tr>
<tr>
<td>Chapter 13</td>
<td>Pectin</td>
</tr>
<tr>
<td>ex 13.03</td>
<td></td>
</tr>
<tr>
<td>Chapter 15</td>
<td>Lard and other rendered pig fat; rendered poultry fat</td>
</tr>
<tr>
<td>15.01</td>
<td>Unrendered fats of bovine cattle, sheep or goats; tallow (including 'premier jus') produced from those fats</td>
</tr>
<tr>
<td>15.02</td>
<td>Lard stearin, oleostearin and tallow stearin; lard oil, oleo-oil and tallow oil, not emulsified or mixed or prepared in any way</td>
</tr>
<tr>
<td>15.03</td>
<td>Fats and oil, of fish and marine mammals, whether or not refined</td>
</tr>
<tr>
<td>15.04</td>
<td>Fixed vegetable oils, fluid or solid, crude, refined or purified</td>
</tr>
<tr>
<td>15.07</td>
<td>Animal or vegetable fats and oils, hydrogenated, whether or not refined, but not further prepared</td>
</tr>
<tr>
<td>15.12</td>
<td>Margarine, imitation lard and other prepared edible fats</td>
</tr>
<tr>
<td>15.17</td>
<td>Residues resulting from the treatment of fatty substances or animal or vegetable waxes</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Chapter 16</td>
<td>Preparations of meat, of fish, of crustaceans or molluscs</td>
</tr>
<tr>
<td>Chapter 17</td>
<td></td>
</tr>
<tr>
<td>17.01</td>
<td>Beet sugar and cane sugar, solid</td>
</tr>
<tr>
<td>17.02</td>
<td>Other sugars; sugar syrups; artificial honey (whether or not mixed with natural honey); caramel</td>
</tr>
<tr>
<td>17.03</td>
<td>Molasses, whether or not decolourised</td>
</tr>
<tr>
<td>17.05</td>
<td>Flavoured or coloured sugars, syrups and molasses, but not including fruit juices containing added sugar in any proportion</td>
</tr>
<tr>
<td>Chapter 18</td>
<td></td>
</tr>
<tr>
<td>18.01</td>
<td>Cocoa beans, whole or broken, raw or roasted</td>
</tr>
<tr>
<td>18.02</td>
<td>Cocoa shells, husks, skins and waste</td>
</tr>
<tr>
<td>Chapter 20</td>
<td>Preparations of vegetables, fruit or other parts of plants</td>
</tr>
<tr>
<td>Chapter 22</td>
<td></td>
</tr>
<tr>
<td>22.04</td>
<td>Grape must, in fermentation or with fermentation arrested otherwise than by the addition of alcohol</td>
</tr>
<tr>
<td>22.05</td>
<td>Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol</td>
</tr>
<tr>
<td>22.07</td>
<td>Other fermented beverages (for example, cider, perry and mead)</td>
</tr>
<tr>
<td>ex 22.08</td>
<td>Ethyl alcohol or neutral spirits, whether or not denatured, of any strength, obtained from agricultural products listed in this Annex, excluding liqueurs and other spirituous beverages and compound alcoholic preparations (known as ‘concentrated extracts’) for the manufacture of beverages</td>
</tr>
<tr>
<td>ex 22.09</td>
<td>Vinegar and substitutes for vinegar</td>
</tr>
<tr>
<td>Chapter 23</td>
<td>Residues and waste from the food industries; prepared animal fodder</td>
</tr>
<tr>
<td>Chapter 24</td>
<td></td>
</tr>
<tr>
<td>24.01</td>
<td>Unmanufactured tobacco, tobacco refuse</td>
</tr>
<tr>
<td>Chapter 45</td>
<td></td>
</tr>
<tr>
<td>45.01</td>
<td>Natural cork, unworked, crushed, granulated or ground; waste cork</td>
</tr>
<tr>
<td>Chapter 54</td>
<td></td>
</tr>
<tr>
<td>54.01</td>
<td>Flax, raw or processed but not spun; flax tow and waste (including pulled or garnetted rags)</td>
</tr>
<tr>
<td>Chapter 57</td>
<td>57.01</td>
</tr>
</tbody>
</table>