



EUROPEAN COMMISSION

Brussels, 23.09.2020
C(2020) 6654 final

PUBLIC VERSION

This document is made available for
information purposes only.

Subject: **State aid SA.58649 (2020/N) – Belgium (Wallonia)**
COVID-19: Aid for producers of ware potatoes who own a stock of over-the-counter potatoes

Excellency,

1. PROCEDURE

- (1) By electronic notification of 17 September 2020, Belgium notified an aid scheme in the form of limited amounts of aid (*“Aides au producteurs de pommes de terre de conservation détenteurs en propriété d'un stock de pomme de terre en vente libre”*, “the measure”) under section 3.1 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”)¹.
- (2) Belgium exceptionally agrees to waive its rights deriving from Article 342 of the TFEU, in conjunction with Article 3 of Regulation 1/1958², and to have this Decision adopted and notified in English.

* Handling instructions for SENSITIVE information are given at <https://europa.eu/ldb43PX>

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

His Excellency Mr Philippe Goffin
Minister for Foreign and European Affairs
Rue des Petits Carmes, 15

B - 1000 Bruxelles

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111

2. DESCRIPTION OF THE MEASURE

(3) Belgium considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.

(4) The compatibility assessment of the measure is based on Article 107(3)(b) of the TFEU, as interpreted by Section 3.1 of the Temporary Framework.

2.1. Nature and form of aid

(5) The measure provides aid in the form of direct grants.

2.2. National legal basis

(6) The legal basis for the measure is the Draft of the Decree of the Walloon government granting aid in 2020 to producers of ware potatoes who own a stock of over-the-counter potatoes³.

2.3. Administration of the measure

(7) The Public Service for Agriculture, Natural Resources and Environment of Wallonia is responsible for administering the measure.

2.4. Budget and duration of the measure

(8) The estimated budget of the measure is EUR 10 450 000.

(9) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

(10) The Belgian authorities confirmed that the measure is not co-financed by the European Regional Development Fund (ERDF), the European Social Fund (ESF), Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD), the European Maritime and Fisheries Fund (EMFF), the European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII).

2.5. Beneficiaries

(11) The beneficiaries concerned are the farmers/stockers (micro enterprises and SME) identified in the IACS (*Integrated administration and control system*) and who have declared agricultural plots under the crop code “901” and owned, on 15 May 2020, a stock of over-the-counter storage potatoes of at least fifty tonnes. The estimated number of beneficiaries will be from 501 to 1000.

³ *Arrêté du gouvernement wallon octroyant une aide en 2020 aux producteurs de pommes de terre de conservation détenteurs en propriété d'un stock de pommes de terre en vente libre.*

- (12) Aid may not be granted under the measure to medium⁴ and large enterprises that were already in difficulty within the meaning of the Agricultural Block Exemption Regulation (“ABER”)⁵ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the ABER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and have not received rescue aid⁶ or restructuring aid⁷.

2.6. Sectoral and regional scope of the measure

- (13) The measure is open to primary agricultural producers/stockers active in the potatoes sector. Financial institutions are excluded as eligible final beneficiaries. The measure applies to the whole territory of Wallonia region.

2.7. Basic elements of the measure

- (14) The measure aims to ensure the viability of Walloon potato producers/stockers who could not sell their storage potato stock and for which they did not have a contract due to the COVID19 crisis. Only ware potatoes benefit from the aid. New potatoes are in fact not stored long term.
- (15) The maximum aid is equal to EUR 50 per ton of ware potatoes owned and stored on 15 May 2020. The ware potatoes that the producer has given as food to his own cattle between 13 March 2020 and 15 May 2020 are added to the stock. Aid is only granted from the fifty-first ton of the stock. It is limited to 20 tons of ware potatoes per hectare indicated in the 2019 Single Application under crop code “901”. The aid is calculated for a maximum of 450 tons.
- (16) Beyond the aid indicated at the previous recital, and within the limit of available budgetary credits, the granting authority could grant an aid of a maximum of EUR 50 per ton of ware potatoes owned and stored on 15 May 2020, on quantities stored in excess of 500 tons, up to a maximum of 1500 tons. This compensation is limited to 20 tons of ware potatoes per hectare indicated in the 2019 Single Application under crop code “901”. In order to respect the available credits, the total amount of the aid could be reduced accordingly.
- (17) The total aid gross, i.e. before any deduction of taxes or other charges, shall not exceed EUR 100 000 per undertaking engaged in the primary production of agricultural products.

⁴ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

⁵ Article 2(14) of Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1.

⁶ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

⁷ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

- (18) Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market.

2.8. Cumulation

- (19) The Belgian authorities confirmed that aid under this measure is not going to be cumulated with *de minimis* aid⁸ and/or with aid under the ABER.
- (20) The Belgian authorities confirm that aid under the measure is not going to be cumulated with other forms of Union financing.
- (21) The Belgian authorities confirm that aid granted under the measure is not going to be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework.
- (22) The Belgian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 23(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (23) The Belgian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 10 000 granted under the measure on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting⁹).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (24) By committing not to grant aid under the measure before its approval, the Belgian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (25) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

⁸ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p.1).

⁹ Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

- (26) The measure is imputable to the State, since it is administered by the Public Service for Agriculture, Natural Resources and Environment of Wallonia and it is based on the draft of the Decree of the Walloon government granting aid in 2020 to producers of ware potatoes who own a stock of over-the-counter potatoes. It is financed through State resources, since it is financed by public funds.
- (27) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.
- (28) The advantage granted by the measure is selective, since it will be awarded only to certain undertakings, in particular for undertakings active in the potatoes sector, excluding the financial sector.
- (29) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (30) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Belgian authorities do not contest that conclusion.

3.3. Compatibility

- (31) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (32) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (33) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*”.
- (34) The measure is one of a series of measures conceived at national level by the Belgian authorities to remedy a serious disturbance in their economy. The measure is important to ensure the viability of primary producers of potatoes and is of a scale, which can be reasonably anticipated to produce effects across the targeted agricultural subsector in Belgium. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in section 3.1 of the Temporary Framework.
- (35) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
- The aid takes the form of direct grants, as shown in recital (5).

- The overall nominal value of direct grants does not exceed EUR 100 000 per undertaking active in the primary production of agricultural products, all figures must be gross, that is, before any deduction of tax or other charges, as shown in recital (17). The measure therefore complies with point 23(a) of the Temporary Framework.
 - Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (8). The measure therefore complies with point 22(b) of the Temporary Framework.
 - Aid may not be granted under the measure to medium and large undertakings that were already in difficulty on 31 December 2019, as shown in recital (12). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to a collective insolvency procedure under national law, and they have not received rescue aid or restructuring aid (unless the rescue aid was reimbursed or the restructuring plan completed) as shown in recital (12). The measure, therefore, complies with point 22(c) of the Temporary Framework;
 - Aid will be granted under the measure no later than 31 December 2020, as shown in recital (9). The measure therefore complies with point 22(d) of the Temporary Framework;
 - Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market, as shown in recital (18). Therefore, the measure complies with point 23(b) of the Temporary Framework;
 - Since the measure is applicable only to undertakings active in the primary agricultural sector, as described in recital (13), points 22(e) and 23bis of the Temporary Framework do not apply.
- (36) The Belgian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected, as shown in recital (23). The Belgian authorities further confirm that the aid under the measure is not going to be cumulated with other aid, as shown in recitals (19) to (21).
- (37) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

