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Subject: **State aid SA.62393 (2021/N) – Belgium (Wallonia)
COVID-19: Aid for pig farmers with breeding sows**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 18 March 2021, Belgium notified an aid scheme in the form of limited amounts of aid (“*Aides aux éleveurs détenteurs de truies d’élevage*”, “the measure”) under 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 Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958², and to have this Decision adopted and notified in English.

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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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

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2. DESCRIPTION OF THE MEASURE

- (3) Belgium considers that the COVID-19 outbreak affects 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) Belgium confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, as interpreted by Sections 2 and 3.1 of the Temporary Framework.

2.1. Nature and form of aid

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

2.2. National legal basis

- (7) The legal basis of the measure is the Walloon Government's draft Order granting crisis aid in 2021 to pig breeders affected by the drop in prices due to measures to combat COVID-19³.

2.3. Administration of the measure

- (8) The Aid Department of the Walloon Public Service ("SPW") for Agriculture, Natural Resources and Environment is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 6.5 million.
- (10) Aid may be granted under the measure as from the notification of Commission's approval⁴ until no later than 31 December 2021.
- (11) 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).

³ *Projet d'arrêté du gouvernement wallon octroyant une aide de crise en 2021 aux éleveurs de porcs affectés par la chute des prix due aux mesures de lutte contre la COVID-19.*

⁴ As provided in Article 18, of the national legal basis.

2.5. Beneficiaries

- (12) The beneficiaries of the measure are pig farmers. Only micro, small and medium-sized enterprises⁵ are eligible for aid. The estimated number of beneficiaries will be around 220. Financial institutions are excluded as eligible final beneficiaries. Undertakings active in the processing or marketing of agricultural products are not eligible for aid.
- (13) Aid may not be granted under the measure to medium enterprises that were already in difficulty within the meaning of the Block Exemption Regulations⁶ on 31 December 2019. Aid may be granted to small and micro enterprises that were in difficulty within the meaning of the Block Exemption Regulations 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 aid⁷ or restructuring aid⁸.

2.6. Sectoral and regional scope of the measure

- (14) The measure is open to the pig sector, as described in recital (12). Financial institutions are excluded as eligible final beneficiaries. The measure applies to the whole territory of Wallonia.

2.7. Basic elements of the measure

- (15) The aim of the measure is to grant financial assistance to pig farmers in Wallonia due to loss of income due to the COVID-19 epidemic, in order to mitigate its consequences.
- (16) The measures taken to fight against the COVID-19 pandemic have led to a total closure of the HORECA sector and cutting workshops for large and medium-sized distribution; a drastic drop in exports to the countries of the European Union; a drastic drop in exports from the EU to China following logistical and freight problems (lack of personnel, of containers, etc.); and a loading delays leading to a devaluation of the animals. At the same time, there has also been an increase in the prices of raw materials (wheat, soybeans), which has an impact on production costs.
- (17) Over the reference period from the 15th to 53rd week of 2020, the decrease in the price per piglet of 25kg, was more than 74%, from EUR 48 to EUR 15 while the cost price is around EUR 50, i.e. a cumulative loss per piglet, over this 39-week

⁵ 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 (“GBER”).

⁶ As defined in Article 2(18) GBER and Article 2(14) of Commission 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, OJ L 193, 1.7.2014, p. 1 (“ABER”).

⁷ 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.

⁸ 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.

period, was EUR 1,105 or EUR 28.33 per week. With a total sow herd of almost 13,590 units, the sector's total losses were over EUR 7.2 million.

- (18) The calculation per sow is determined taken an average of 2.5 annual cycles of 10 weaned piglets, i.e. 25 piglets per year. Consequently the production over the reference period (39 weeks) will be: $25 \times (39/52) = 18.75$ piglets for this period.
- (19) The estimated loss is therefore: $18.75 \times \text{EUR } 28.33 = \text{EUR } 531$ per sow.
- (20) The aid granted is in the form of a direct subsidy, up to a flat-rate aid of 530 € per sow present on the farm between the 15th and 53rd week of 2020 on the basis of the official identification register.
- (21) The maximum amount of financial compensation is 100 000 EUR per beneficiary. The overall nominal value of direct grants does not exceed EUR 225 000 per undertaking active in the primary production of agricultural products, all figures gross, that is, before any deduction of tax or other charges.
- (22) Belgium confirms that aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market.

2.8. Cumulation

- (23) The Belgian authorities confirmed that aid granted under the measure will not be cumulated with *de minimis* aid⁹ or with aid under the ABER or GBER.
- (24) The Belgian authorities confirmed that aid under the notified measure will not be cumulated with other forms of Union financing.
- (25) The Belgian authorities confirmed that aid granted under the measure will not be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework.
- (26) The Belgian authorities confirmed 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.
- (27) Moreover, where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Belgium will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 1.8 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23(a) of the Temporary Framework, the overall maximum amount of EUR 270 000 is not exceeded per undertaking.

⁹ 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), and Commission Regulation (EU) No 1408/2013 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 in the agriculture sector (OJ L 352, 24.12.2013 p. 9).

2.9. Monitoring and reporting

- (28) The Belgian authorities confirmed 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 granting¹⁰).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (29) By notifying the measure before putting it into effect, the Belgian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (30) 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.
- (31) The measure is imputable to the State, since it is administered by the Aid Department of the SPW “Agriculture, Natural Resources and Environment”, as shown in recital (8), and is based on the Walloon Government’s draft Order granting crisis aid in 2021 to pig breeders affected by the drop in prices due to measures to combat COVID-19, as shown in recital (7). It is financed through State resources, since it is financed by public funds.
- (32) The measure confers an advantage on its beneficiaries in the form of direct grants, as shown in recital (6). The measure confers on those beneficiaries an advantage, which they would not have had under normal market conditions.
- (33) The advantage granted by the measure is selective, since it will be awarded only to certain undertakings, in particular for undertakings active in a specific production sector, excluding the financial sector, as shown in recital (12).
- (34) 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.
- (35) 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.

¹⁰ Referring to information required in Annex III GBER, Annex III ABER and Annex III FIBER.

3.3. Compatibility

- (36) 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.
- (37) 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*”.
- (38) 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*”.
- (39) The measure aims at receiving that compensation at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (40) The measure is one of a series of measures conceived at regional level by the Walloon authorities to remedy a serious disturbance in their economy. The measure is important to preserve employment and economic continuity, is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the targeted 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.
- (41) 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 (6).
 - The overall nominal value of direct grants does not exceed EUR 225 000 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 (21). 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 (9). The measure therefore complies with point 22(b) of the Temporary Framework.
 - Aid can be granted under the measure only to micro, small and medium-sized enterprises, as shown in recital (12). Aid may not be granted under the measure to medium enterprises that were already in difficulty on 31 December 2019, as shown in recital (13). 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 (13). The measure, therefore, complies with points 22(c) and 22(c)bis of the Temporary Framework.

- Aid will be granted under the measure no later than 31 December 2021, as shown in recital (10). The measure therefore complies with point 22(d) of the Temporary Framework.
- Aid granted to undertakings active in the processing and marketing of agricultural products is completely excluded, as shown in recital (12). The measure therefore complies with point 22(e) 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 (22). The measure therefore complies with point 23(b) of the Temporary Framework
- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Belgium will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 1.8 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23(a) of the Temporary Framework, the overall maximum amount of EUR 270 000 is not exceeded per undertaking, as shown in recital (27). The measure therefore complies with point 23bis of the Temporary Framework.

(42) 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 (28). The Belgian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected, as shown in recitals (23) to (25).

(43) 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.

4. 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