



EUROPEAN COMMISSION

Brussels,
C (2011)

Subject: State aid/Germany
Aid SA.32170 (2010/N)
Federal Framework for small amounts of compatible aid in agriculture
("Bundesregelung landwirtschaftliche Kleinbeihilfen")

Sir,

The European Commission ("the Commission") wishes to inform Germany that, having examined the information supplied by your authorities on the State aid measure referred to above, it has decided not to raise any objections to the relevant measure as it is compatible with the Treaty on the Functioning of the European Union (TFEU).

In taking this decision the Commission has relied on the following considerations:

1. PROCEDURE

- (1) By electronic notification of 28 December 2010, registered by the Commission on the same date, Germany notified, according to Article 108(3) of the TFEU, the above mentioned aid scheme pursuant to the Commission Communication "Temporary Union framework for State aid measures to support access to finance in the current economic and financial crisis" of 1 December 2010 (hereinafter referred to as the "Temporary Union Framework").¹
- (2) The German authorities sent complementary information on 20 January 2011, registered by the Commission on the same date.

2. DESCRIPTION

Legal Basis

- (3) The *Regelung zur vorübergehenden Gewährung geringfügiger Beihilfen an landwirtschaftliche Unternehmen zur Erleichterung des Zugangs zu Finanzierungsmitteln während der Finanz- und Wirtschaftskrise - Bundesregelung landwirtschaftliche Kleinbeihilfen* (Federal Framework for small amounts of compatible aid in agriculture) was approved by Commission

¹ Available at: http://ec.europa.eu/competition/state_aid/legislation/temporary_framework_en.pdf and published in OJ C 6 of 11.1.2011, p 5

His Excellency Dr. Guido Westerwelle
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decision N 597/2009 of 23 November 2009 under the modified Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis (hereinafter referred to as the "Temporary Community Framework").²

- (4) By the present notification, Germany seeks to prolong the existing scheme until 31 December 2011. The notified amended version of the scheme is hereinafter referred to as the "Federal Framework".

Description of the scheme

- (5) The Federal Framework, as notified by the German authorities, stipulates that:
- (a) Beneficiaries are undertakings, which were not in difficulty on 1 July 2008. To determine if an undertaking is in difficulty reference is made to point 2.1 of Communication from the Commission — the Community guidelines on State aid for rescuing and restructuring firms in difficulty³ (point 3 of the Federal Framework).⁴
 - (b) Aid can only be granted in favour of an undertaking which is not subject to an outstanding recovery order following a Commission decision declaring an aid illegal and incompatible with the internal market (point 3 of the Federal Framework).⁵
 - (c) The amount of compatible aid will not exceed EUR 15 000 cash grant or gross grant equivalent per undertaking (points 4.1 and 4.2 of the Federal framework).⁶
 - (d) The total amount of the agricultural *de minimis* and the aid granted under this measure will not exceed EUR 15 000 per undertakings during the period from 1 January 2008 to 31 December 2011 (points 4.1 and 6.2 of the Federal Framework).⁷
 - (e) Aid is to be granted as transparent aid within the meaning of Article 3(6) of Regulation (EC) No 1535/2007 (point 4.3 of the Federal Framework).
 - (f) Aid will not be granted as an export aid or aid favouring domestic over imported products (point 4.5 of the Federal Framework).⁸
 - (g) Aid will not be fixed on the basis of the price or quantity of products put on the market (point 4.7 of the Federal Framework).⁹

² Communication from the Commission-Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis, O.J. C 83, 7.4. 2009, p.1 as amended by Communication from the Commission of 28 October 2009, OJ C 261, 31.10.2009, p.2 and amended by Communication from the Commission amending the Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis OJ C 303, 15.12.2009, p. 6

³ OJ C 244, 1.10.2004, p. 2

⁴ See Point 2.2 (d) of the Temporary Union Framework

⁵ See Point 5 (a) of the Temporary Union Framework

⁶ See Point 2.2 (g) of the Temporary Union Framework

⁷ See Point 2.2 (h) of the Temporary Union Framework

⁸ See Point 2.2 (f) of the Temporary Union Framework

⁹ See Point 2.2 (g) of the Temporary Union Framework

- (h) Undertakings active in the primary production of agricultural products can submit applications no later than 31 March 2011 (point 5 of the Federal Framework). The authority granting the aid will grant the compatible limited amount of aid until 31 December 2011 (points 7 and 8 of the Federal Framework).¹⁰
 - (i) The temporary aid scheme may be cumulated with other compatible aid or with other forms of Union financing provided that the maximum aid intensities indicated in the relevant guidelines or block exemptions Regulations are respected (point 6.2 of the Federal Framework).¹¹
 - (j) The temporary aid scheme may not be cumulated with aid falling within the scope of the agricultural *de minimis* Regulation for the same eligible costs (point 6.2 of the Federal Framework).¹²
 - (k) The authority before granting the aid will obtain a declaration from the concerned undertaking on all agricultural *de minimis* or other aid pursuant to this measure during the period 1 January 2008 to 31 December 2011 (point 7.1 of the Federal framework).¹³
 - (l) The detailed records on the compatible aid, which contain all the information necessary to verify whether the conditions were respected, will be kept for a period of 10 years and will be provided to the Commission upon request (point 7.4 of the Federal Framework).¹⁴
 - (m) The Federal Framework will only take effect once the Commission has approved it, and it will expire on 31 December 2011 (point 8 of the Federal Framework).
- (6) The German authorities confirmed that apart from the new elements introduced by the rules of the Temporary Union Framework, the elements of the scheme established pursuant to Commission decision N 597/2009 in accordance with the Temporary Community Framework will remain unchanged.
 - (7) In addition, the German authorities confirmed that the aid ceilings fixed under the Communication will be applied regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.¹⁵
 - (8) The estimated number of beneficiaries is over 1000. The prolonged scheme is open to the whole sector of primary agricultural production.
 - (9) The original scheme (N 597/2009) was approved with a budget of 100 million EUR (estimated). The German authorities confirmed that this amount will not be exceeded due to the extension of the scheme until 31 December 2011.

¹⁰ See Point 2.2 (a) and (i) of the Temporary Union Framework

¹¹ See paragraph 3 of Point 2.6 of the Temporary Union Framework

¹² See paragraph 2 of Point 2.6 of the Temporary Union Framework

¹³ See Point 2.2 (h) of the Temporary Union Framework

¹⁴ See paragraph 2 of Point 4 of the Temporary Union Framework

¹⁵ See paragraph 1 of Point 2.6 of the Temporary Union Framework

Other

- (10) Germany confirmed that the notification does not contain confidential information which should not be disclosed to third parties.
- (11) Germany has exceptionally agreed that the decision be adopted in English as its authentic language.

3. ASSESSMENT

3.1 Legality of the measure

- (12) By notifying the measure before putting it into effect, the German authorities respected their obligations under Article 108(3) of the TFEU.

3.2 Compatibility of the measure

- (13) In its decision of 23 November 2009, the Commission concluded that the scheme "Federal Framework for small amounts of compatible aid in agriculture" (N 597/2009) constitutes State aid within the meaning of Article 107(1) of the TFEU. The decision found the measure compatible with the internal market under Article 107(3) (b) of the TFEU because it was appropriate, necessary and proportionate to remedy the serious disturbance in the German economy. To this end, the Commission had assessed the appropriateness, necessity and proportionality of the measure.
- (14) In view of the continued volatility of financial markets and the uncertainty about the economic outlook, the Commission has decided that a prolongation until the end of 2011 of the Temporary Framework measures targeted to facilitate companies' access to finance is justified in order to assure a gradual return to normal State aid rules while limiting their impact on competition.
- (15) The Commission observes that the prolongation of the scheme is a response to the continuing difficulties that undertakings in the primary agricultural production in Germany experience in obtaining funding by the banks. Even though in broad terms the health of the banking sector has improved compared with the situation one year ago, the recovery is still fragile as the future evolution of financing remains uncertain. Thus, the risk persists that the banking system may not be ready to sustain the recovery when credit demand picks up.
- (16) Against this background and taking into account the residual fragility of the recovery process and the possibility of setbacks in that process, the continuation of the scheme "Federal Framework for small amounts of compatible aid in agriculture" with the above described commitments and modification to the scheme can be deemed necessary to facilitate companies' access to finance. The Commission considers that an abrupt withdrawal of the scheme might put further stress on the recovery process. The Commission therefore considers that the prolongation of the scheme until the end of 2011 is appropriate, necessary and proportional to remedy a serious disturbance of the German economy.
- (17) On the basis of the above, the notified prolongation of the "Federal Framework for small amounts of compatible aid in agriculture" with the above described

modifications does not alter the Commission's previous assessment in the decision of 23 November 2009 (N 597/2009).

- (18) On the basis of these considerations, the prerequisites for the compatibility of the scheme with Article 107(3)(b) of the TFEU that have been established by the Temporary Community Framework continue to apply. Furthermore, the Commission considers that the notified prolongation of the scheme until 31 December 2011 complies with the requirements set out in the Temporary Union Framework, in particular in Section 2.2, and is therefore compatible with the internal market.
- (19) The Commission notes that Germany has exceptionally agreed that the decision be adopted in English as its authentic language. Germany also confirmed that the notification does not contain any confidential information, which should not be disclosed to third parties.

4. CONCLUSION

- (20) For these reasons, the Commission considers that the notified prolongation for submitting applications until 31 March 2011 and granting aid until 31 December 2011 under the German scheme "Federal Framework for small amounts of compatible aid in agriculture" is in conformity with the requirements set out above and considers it to be compatible with the internal market on the basis of Article 107(3)(b) of the TFEU.

Yours faithfully,

For the Commission

Dacian CIOLOȘ
Member of the Commission