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**Subject: State Aid SA.58344 (2020/N) – Lithuania
Amendment of the scheme SA.57514 (2020/N) - Temporary State Aid
to bovine animal producers and milk producers facing economic
difficulties caused by the outbreak of Covid-19**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 12 August 2020, Lithuania notified an amendment to the State aid scheme SA.57514 (2020/N) (“the existing aid scheme” or “the measure”) approved by Commission Decision C(2020) 3896 final of 5 June 2020 (“the initial decision”) 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) Lithuania 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.

* 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, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, 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.

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2. DESCRIPTION OF THE MEASURE

- (3) Lithuania considers that the COVID-19 outbreak has started to affect the real economy. The existing aid scheme 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 existing aid scheme is based on Article 107(3)(b) TFEU, in light of Sections 2 and 3.1 of the Temporary Framework.

2.1. Legal basis

- (5) The legal bases of the measure are:
 - a) Draft Order of Minister of Agriculture of the Republic of Lithuania “*On the Approval of the Rules for the Payment of Temporary State Aid to bovine animal producers*” and the Draft Order of Minister of Agriculture of the Republic of Lithuania “*On the Approval of the Rules on the Administration of Temporary State Aid to milk producers facing economic difficulties caused by the outbreak of Covid-19*”, under which the existing aid scheme was notified and the initial decision was taken.
 - b) Draft Order of the Minister of Agriculture of the Republic of Lithuania “*On the Amendment of the Order of the Minister of Agriculture of the Republic of Lithuania No. 3D-426 of 9 June 2020 on the approval of the rules for the payment of temporary state aid to bovine animal producers*”. Draft Order of the Minister of Agriculture of the Republic of Lithuania “*On the Amendment of the Order of the Minister of Agriculture of The Republic of Lithuania No.427 of 9 June 2020 on the approval of the Rules on the Administration of Temporary State Aid to milk producers facing economic difficulties caused by the outbreak of Covid-19*”, under which the amendments are notified.

2.2. Administration of the measure and form of aid

- (6) The granting authority is the State Enterprise Agricultural Information and Rural Business Centre. The municipalities and the National Paying Agency under the Ministry of Agriculture of the Republic of Lithuania are responsible for administering the measure.
- (7) It contains direct grants up to a maximum of EUR 100 000 to bovine animal producers and milk producers under Section 3.1 of the Temporary Framework.

2.3. Budget and duration of the measure

- (8) The initial approved budget was EUR 30.5 million. With the notified amendment the Lithuanian authorities intend to increase the overall budget by EUR 19.2 million from EUR 30.5 million to EUR 49.7 million.
- (9) Aid may be granted under the notified amendment as from its approval by the Commission until no later than 31 December 2020.

2.4. Beneficiaries

- (10) Under the existing aid scheme the beneficiaries are SMEs and large enterprises³ registered in Lithuania active in the sectors described in recital (13) of this Decision.
- (11) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the Agricultural Block Exemption Regulation (the “ABER”)⁴ on 31 December 2019.
- (12) The number of beneficiaries is estimated at 28 000 for bovine animal producers and 28 000 for milk producers.

2.5. Sectoral and regional scope of the measure

- (13) The existing aid scheme is open to bovine animal and milk producers active in the primary agricultural production. It applies to the whole territory of Lithuania.

2.6. Amendments to the existing aid scheme

- (14) The Lithuanian authorities explained that, as the coronavirus continues to spread the economic situation in the country remains tense, in particular in the dairy sector. Lithuania informed that statistics for June 2020 showed that dairy farmers' incomes in Lithuania have continued to fall and may fall further in July-August 2020. The aid measure approved in the initial decision aims to help to maintain liquidity of the economic entities. In order to render the aid scheme more effectively the Lithuanian authorities will amend the existing aid scheme with the following features with respect to direct grants under Section 3.1 of the Temporary Framework:
 - an extension of the measure for the milk producers with three months, covering the period June to the end of August 2020;
 - an increase of the overall budget of the aid scheme by EUR 19.2 million from EUR 30.5 million to EUR 49.7 million (see recital (8) of this Decision). The budget increase relates to the milk producers. Of the overall budget, EUR 12 million is allocated to bovine animal producers and EUR 37.7 million to milk producers.
- (15) Furthermore the Lithuanian authorities will amend the existing scheme with following provisions:
 - a modification of the reference period with regard to aid to milk producers covering the period June to August 2020. The aid is granted, if the average monthly income of dairy producers during the period of June - August 2020 was at least by 5% lower than the average monthly income during

³ As defined in Annex I to 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.

⁴ As defined in Article 2 (14) of the 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 of 1.7.2014, p.1.

the period of June - August 2017 - 2019 of Lithuanian milk producers who marketed milk to milk collectors registered in Lithuania;

- a modification of the registration dates with regard to aid to milk producers covering the period June to August 2020. The milk producers need to be registered in the Register of Agriculture and Rural Business of the Republic of Lithuania as owners or partners of the holding by 1 September 2020 at the latest, and their dairy cows need to be registered in the Register of Farmed Animals (RFA) as of 1st September 2020;
- the aid to milk producers covering the period June to August 2020 is paid for the dairy cows registered in the RFA as of 1 September 2020;
- the inclusion of an additional term for the submission of aid applications from 14 until 25 September 2020;
- in addition to the commitment of the Lithuanian authorities 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 individual⁵ aid granted under the measure on the Commission's IT tool⁶ within 12 months from the moment of granting (recital (31) of the initial decision), the amending legal basis (recital (5b) of this Decision) now includes the provision with respect to the obligation of point 86 of the Temporary Framework to publish relevant information on each individual aid in the agricultural sector above EUR 10 000 granted under the measure.

(16) All the other conditions of the existing aid scheme remain unchanged as described in the initial decision.

3. ASSESSMENT

3.1. Lawfulness of the measure

(17) By notifying the amendment to the existing aid scheme before putting it into effect, the Lithuanian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(18) 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.

⁵ Referring to information required in Annex III of the Commission Regulation (EU) No 702/2014 of 25 June 2014.

⁶ The state aid transparency public search gives access to state aid individual award data provided by Member States in compliance with the European transparency requirements for state aid and can be found at <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>.

- (19) The existence of aid within the meaning of Article 107(1) TFEU was assessed and established in recitals (33) to (38) of the initial decision. The Commission therefore refers to that assessment. The amendments introduced by the Lithuanian authorities do not affect those findings, which are applicable also to these amendments.

3.3. Compatibility

- (20) Since the notified amendment involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that amendment is compatible with the internal market.
- (21) 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*”.
- (22) 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*”.
- (23) In the initial decision, the Commission concluded that the existing aid scheme was compliant with the compatibility conditions set out by the Temporary Framework.
- (24) With regard to the grants under Section 3.1 of the Temporary Framework, the Commission considers that the amendments described in recitals (14) and (15) above do not affect the compatibility assessment made in recitals (39) to (49) of the initial decision. The amended aid scheme meets all the applicable conditions provided for by Section 3.1 of the Temporary Framework:
- The maximum aid amount in the form of direct grants per undertaking will not exceed the overall cap of EUR 100 000 for undertakings active in the primary agricultural production (recital (7)). The conditions set out in points 22(a) and 23(a) of the Temporary Framework are therefore met.
 - The estimated budget of the measure has been provided by Lithuania (recitals (8) and (14) second bullet point). Therefore, the condition set out in point 22(b) of the Temporary Framework is considered to be met.
 - The aid will not be granted to undertakings, which were already in difficulty on 31 December 2019 (recital (11)). Hence, the conditions set out in point 22(c) of the Temporary Framework are met.

- The aid will be granted no later than 31 December 2020 (recital (9)). Hence, the condition set out in point 22(d) of the Temporary Framework is met.
- Aid granted to undertakings active in the primary production of agricultural products are fixed amounts per animal. These rates are not fixed on the basis of the price or quantity of products put on the market (recital (46) of the initial decision). Furthermore, as mentioned in footnote 5 of recital (20) of the initial decision, for the purposes of that decision, the term ‘marketed’ refers only to the first sale⁷ from the primary producer of bovine animal products to an undertaking active in the processing of such products or to a reseller. Hence, the aid concerns the primary production and there is no question that quantities are put on the market. The measure therefore complies with point 23(b) of the Temporary Framework;
- The Lithuanian authorities have ensured that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (15) last bullet point).

(25) The Commission considers that the notified amendments concerning the extension of the measure for milk producers with three months, the increase of the overall budget (recital (14)) and the modified provisions mentioned in recital (15) are appropriate, proportionate and necessary to achieve the objectives of the existing aid scheme more effectively.

(26) The Commission therefore considers that the amended scheme remains 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.

⁷ According to the definition of marketing in point (35)12 of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 (OJ C 204, 1.7.2014, p. 1), the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale is not part of the marketing. Those activities are still considered as a part of the primary production. When the products are in the hands of a processing company or a reseller, they are not yet put on the market.

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

