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Subject: **State aid SA.102110 (2022/N) – France**
COVID-19: Exceptional compensation for pig farms

Excellency,

1. PROCEDURE

- (1) By electronic notification of 25 February 2022, France notified an aid scheme in the form of limited amounts of aid (“*Indemnisation exceptionnel des élevages porcins*”, “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. By emails of 31 March 2022 and 5 April 2022, France submitted complementary information.
- (2) France 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6) and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

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) France considers that the COVID-19 pandemic 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 pandemic, 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) France 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 a direct grant.

2.2. National legal basis

- (7) The legal basis of the measure is the draft of the Decision of the Director General of FranceAgriMer specifying the procedures for implementing an exceptional compensation scheme for pig farms to support pig farms³.

2.3. Administration of the measure

- (8) The public agency FranceAgriMer⁴ is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 175 000 000.
- (10) Aid may be granted under the measure as from the notification of the Commission's approval until no later than 30 June 2022.
- (11) The French 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 *Décision de la directrice générale de FranceAgriMer précisant les modalités de mise en œuvre d'un dispositif d'indemnisation exceptionnel des élevages porcins pour soutenir les exploitations agricoles d'élevage porcin.*

⁴ *Établissement national des produits de l'agriculture et de la mer.*

2.5. Beneficiaries

- (12) The final beneficiaries are small and medium enterprises⁵ active in the primary production⁶ of the pig sector that are the owners of the animals⁷. The estimated number of beneficiaries will be more than 10 000. Financial institutions are excluded as eligible final beneficiaries.
- (13) The beneficiaries must be more than 20% specialized in pig farming and have raised⁸ in the calendar year 2021 at least 500 pigs, or 200 pigs if the breeder is a beneficiary of the compensatory allowance for natural handicaps⁹.
- (14) Aid may not be granted under the measure to medium enterprises that were already in difficulty within the meaning of the Agricultural Block Exemption Regulation (“ABER”)¹⁰ 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, provided that they are not, at the moment of granting the aid, subject to collective insolvency proceedings under national law and have not received rescue aid¹¹ or restructuring aid¹².

2.6. Sectoral and regional scope of the measure

- (15) 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 France.

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(5) of Commission Regulation (EC) 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).

⁷ Beneficiaries must be registered in 2021 and during the eligible period as the owner of slaughter pigs in the databases of the organizations responsible for guaranteeing the weighing and classification of pigs (PCM databases), and/or as the owner of piglets in the BD Porc database (<https://www.bdporc.com/alertes/accueilAbonne.do>) or an equivalent local database.

⁸ The number of pigs reared for the year 2021 is determined according to the information available in the BD Porc database or an equivalent local database or even the PCM databases.

⁹ The compensatory allowance for natural handicaps (ICHN) is an aid that supports farmers established in territories where production conditions are more difficult than elsewhere, due to natural or specific constraints.

¹⁰ 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).

¹¹ 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.

¹² 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.

2.7. Basic elements of the measure

- (16) The aim of the measure is to grant financial assistance to farmers in order to mitigate the consequences of the COVID-19 pandemic.
- (17) The economic balance of many farms is significantly weakened by the consequences of the COVID-19 outbreak, due to the closure of certain distribution channels or outlets, particularly internationally, and difficulties in terms of the availability of workforce. In this deteriorating context, the pork sector has been facing a rise in production costs combined with a drop in prices since September 2021, significantly degrading the cash flow of companies in the sector, and which today leads to a critical situation for many pig farmers.
- (18) The aid will be calculated as a lump sum based on the total number of piglets of 8 and 25 kg and the slaughter pigs that are raised from 1st September 2021 until 28 February 2022. Thus calculated aid will be reduced by the amount of the aid granted as part of the flat-rate emergency cash aid of EUR 15 000 per farm. The aid under this scheme will only be granted if its amount, after deduction of the amount received under the flat-rate emergency cash aid, exceeds EUR 500.
- (19) Compensation will be paid on a flat-rate basis, according to a scale established according to the category of the animal and the specialization according to the turnover of the pig production compared to the total turnover of the farm:
- Category 1: over 20% and up to 50% (“low specialization”);
 - Category 2: over 50% and up to 80% (“medium specialization”);
 - Category 3: above 80% (“high specialization”).

CATEGORIES	1 : low specialization	2 : medium specialization	3 : high specialization
A. Piglets 8kg	EUR 3.70	EUR 5.20	EUR 6.80
B. Piglets 25 kg	EUR 5.00	EUR 7.20	EUR 9.40
C. Slaughter pigs	EUR 9.10	EUR 13.00	EUR 16.80

The aid will be increased by 20% for breeders installed since 1 January 2017, known as “recently installed”¹³.

- (20) The overall nominal value of direct grants cannot exceed EUR 290 000 per undertaking active in the primary production of agricultural products; all figures are gross, that is, before any deduction of tax or other charges. Aid received under the following schemes must be declared by the applicant in order to verify that the aid ceiling of EUR 290 000 per undertaking will not be exceeded:
- SA.56823 "Solidarity fund for companies particularly affected by the economic, financial and social consequences of the spread of the COVID-19 epidemic and the measures taken to limit this spread"¹⁴;

¹³ The date of establishment will be certified with the specialization rate by the accountant based on any document (MSA –*Mutualité Sociale Agricole*- certificate, business plan, minutes of the general meeting, etc.) or any database accessible to state services proving this date.

- b) SA.56985 “Temporary framework scheme for business support”¹⁵;
 - c) exemptions from employer contributions;
 - d) other public aid (including local authorities) financing the same purpose;
 - e) any compensation, benefit or reimbursement received by the beneficiary in relation to the same purpose over the same period.
- (21) France 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

- (22) The French authorities confirmed that aid granted under the measure may be cumulated with *de minimis* aid¹⁶ provided the provisions and cumulation rules of Regulation (EU) No 1407/2013 are respected. The French authorities confirmed that aid granted under the measure will not be cumulated with aid falling within the scope of the GBER or ABER.
- (23) The French authorities confirmed that aid under the notified measure will not be cumulated with other forms of Union financing.
- (24) The French authorities confirmed that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (25) The French 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 points 22(a) and 23(a) of that Framework, will be respected.
- (26) 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, France will ensure, by appropriate means such as

¹⁴ Approved by Commission Decision C(2020) 2059 final of 30 March 2020, and amended by Commission Decision C(2020) 2164 final of 2 April 2020 in case SA.56887 and by Commission Decision C(2020) 2397 final of 15 April 2020 in case SA.57010.

¹⁵ Approved by Commission Decision C(2020) 2595 final of 20 April 2020, and amended by Commission Decision C(2020) 3460 final of 20 May 2020 in case SA.57299, by Commission Decision C(2020) 5413 final of 31 July 2020 in case SA.58137, by Commission Decision C(2020) 9072 final of 9 December 2020 in case SA.59722, by Commission Decision C(2021) 1902 final of 16 March 2021 in case SA.62102, and by Commission Decision C(2021) 9880 final of 20 December 2021 in case SA.100959.

¹⁶ 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).

separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 2.3 million is not exceeded per undertaking.

2.9. Monitoring and reporting

- (27) The French 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 in the primary agriculture sector on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting¹⁷).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (29) 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
- (30) The measure is imputable to the State, since it is administered by the public agency FranceAgriMer, as shown in recital (8), and will be based on the of the Decision of the Director General of FranceAgriMer specifying the procedures for implementing an exceptional compensation scheme for pig farms to support pig farms, as shown in recital (7). It is financed through State resources, since it is financed by public funds.
- (31) The measure confers an advantage on its beneficiaries in the form of direct grants, as shown in recital (6), which they would not have had under normal market conditions.
- (32) The advantage granted by the measure is selective, since it will be awarded only to certain undertakings, in particular to undertakings active in a specific production sector (pig primary production), excluding the financial sector, as shown in recital (12).
- (33) 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.

¹⁷ Referring to information required in Annex III ABER.

- (34) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The French authorities do not contest that conclusion.

3.3. Compatibility

- (35) 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.
- (36) 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*”.
- (37) 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*”.
- (38) The measure aims at granting financial support to farmers in the pig primary production sector at a time when the normal functioning of markets continues to be severely disturbed by the COVID-19 outbreak and that outbreak continues to affect the wider economy and leading to severe disturbances of the real economy of Member States, as shown in recital (17).
- (39) The measure is one of a series of measures conceived at national level by the French 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 France. 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.
- (40) 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 a direct grant, as shown in recital (6);
 - the overall nominal value of the aid does not exceed EUR 290 000 per undertaking, all figures must be gross, that is, before any deduction of tax or other charges, as shown in recital (20). The measure therefore complies with points 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 to small and medium 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 (14). 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 collective insolvency procedure under national law and they have not received rescue aid¹⁸ or restructuring aid¹⁹, as shown in recital (14). The measure therefore complies with point 22(c)bis of the Temporary Framework;
- aid will be granted under the measure no later than 30 June 2022, as shown in recital (10). 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). 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, France 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 2.3 million is not exceeded per undertaking, as shown in recital (26). The measure therefore complies with point 23bis of the Temporary Framework.

(41) The French authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected, as shown in recital (27). The French 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 (22) to (24).

(42) 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.

¹⁸ 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.

¹⁹ 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.

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