EUROPEAN COMMISSION

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SENSITIVE[*]: *COMP Operations*

Subject: **State Aid SA.57529 (2020/N) – Lithuania**
COVID-19: Individual guarantees and interest and guarantee premium compensation during the COVID-19 outbreak to undertakings active in the agriculture, food, forestry, rural development and fisheries sectors

Excellency,

1. PROCEDURE

(1) By electronic notification of 2 June 2020, Lithuania notified aid in the form of direct grants and guarantees on loans "Individual guarantees and interest and guarantee premium compensation during the COVID-19 outbreak" to undertakings active in the agriculture, food, forestry, rural development and fisheries sectors ("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 4, 8 and 15 June 2020, Lithuania submitted supplementary information on the measure.

(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

[*] Handling instructions for SENSITIVE information are given at https://europa.eu/!db43PX

[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. 1–9 and 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. 3–15.

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Article 3 of Regulation 1/1958,[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) On 16 March 2020, Lithuania declared a lockdown on its entire territory to control the spread of COVID-19, applying restrictions to undertakings active in various sectors. Those restrictions reduced demand and supply, and disrupted the free movement of persons and goods, causing liquidity shortage problems for undertakings operating in several sectors. The COVID-19 outbreak has affected not only sectors in which activities were directly suspended or restricted, but also the economic activities of other market participants.

(4) The disruption of supply chains due to the outbreak has led to a production decrease for farmers and companies involved in the primary production of agricultural products in the countryside. In cases where it was not possible to quickly reduce the volume of production, companies were forced to store unsold products in cold stores or simply destroy unsold production (e.g. in the vegetable sector). Disrupted payments for agricultural products as well as reduction of prices for agricultural producers and the lack of working capital are causing serious financial difficulties for farms that would otherwise be fully viable. Due to the threat posed by the COVID-19 outbreak, farmers and agricultural companies lack funds in relation to both working capital needs and investments. The liquidity shortage caused by the outbreak also has a significant impact on the timely fulfilment of financial commitments already undertaken by farmers and agricultural undertakings.

(5) The COVID-19 outbreak has also affected the forestry sector. As a result of the crisis, half of the buyers of timber produced in State-owned forests suspended the purchase of timber, and the majority of buyers applied for amendments of the contracts to postpone payments and the performance of contracts. The situation is similar in private forests. According to the Lithuanian State Forestry Service, the amount of timber for which permits were issued in private forests in March-April 2020 was 35 % lower as compared to the same period in 2019. That decline has also affected logging companies, since in the absence of timber demand, their workload has been reduced accordingly.

(6) The rural tourism sector has also been affected by the COVID-19 outbreak. Lithuania forecasts that that sector will not receive over 50-80 % of its usual income during the period March-May 2020. The main reason for that decline is that, after closing the borders, tourists cannot come from abroad, and homesteads cannot organize events, business seminars and camps.

(7) The measures put into place to address the COVID-19 outbreak have also caused a dramatic fall in fish demand. The Lithuanian fisheries and aquaculture sector has been experiencing significant economic losses. The collapse of the market for freshly caught fish, caused by the outbreak, has particularly badly affected inland water fishing. Lithuanian small-scale coastal fishery also faces difficulties. Aquaculture farmers are recording losses at a level of 20-30 % as a result of decrease in fish demand, which undermines their economic sustainability.

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

(8) In order to ensure that the disruption caused by the COVID-19 outbreak does not jeopardize business viability, additional support is particularly needed for undertakings active in agriculture, food, forestry, rural development and fisheries sectors and undertakings involved in the primary production and processing of agricultural products that have already established credit relationships with financial institutions as well as those who are seeking new loans. 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 and to preserve the continuity of their economic activity and ensure their viability during and after the outbreak.

(9) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Sections 3.1 and 3.2 of the Temporary Framework.

2.1. The nature and form of aid

(10) The measure comprises two sub-measures. Under the first sub-measure, aid will be granted in the form of direct grants for interest and guarantee premium compensation to undertakings active in the agriculture sector. Under the second sub-measure, aid will be granted in the form of guarantees on loans (including credit lines and leasing) to undertakings active in the agriculture, food, forestry, rural development and fisheries sectors.

2.2. Legal basis

(11) The legal bases for the measure are:

(a) the Draft Order of the Minister of Agriculture of the Republic of Lithuania "On the Approval of the State Aid Scheme 'Interest and guarantee premium compensation during the COVID-19 outbreak'" (the "first Draft Order");

(b) the Draft Order of the Minister of Agriculture of the Republic of Lithuania "On the approval of the Rules on the Compensation of Interest paid on non-guaranteed Loans and Leasing services during the COVID-19 break" (the "second Draft Order");

(c) the Draft amendment of the Resolution of the Government of the Republic of Lithuania of August 22, 1997 No. 912 "On the Agricultural Credit Guarantee Fund";

(d) the Draft amendment of the Order of Minister of Agriculture of Republic of Lithuania of November 14, 2019 No. 3D-624 "On the Approval of the Regulations on Individual Guarantees issued by the Agricultural Credit Guarantee Fund".

2.3. Administration of the measure

(12) The Lithuanian Ministry of Agriculture is responsible for granting the aid.

(13) The measure will be administered by local municipalities and the National Promotional Institution "Agricultural Credit Guarantee Fund", a public

instrument under the supervision of the Minister of Agriculture of the Republic of Lithuania.

(14) Chapters V, VI and VII of the second Draft Order set out in detail the conditions to receive the aid, the procedure to follow and the documents to submit to apply for the aid, the commitments to be taken by the aid beneficiaries, and the controls to be done by the municipalities.

2.4. Budget and duration of the measure

(15) The estimated budget of the measure is EUR 59 million. Of that amount, EUR 9 million will be for direct grants for interest and guarantee premium compensation, and EUR 50 million for guarantees on loans.

(16) Aid may be granted under the measure from the date of its approval until 31 December 2020.

2.5. Beneficiaries

(17) The final beneficiaries of the measure are small and medium sized enterprises ("SMEs") and large enterprises[3] active in the agriculture, food, forestry, rural development and fisheries sectors in Lithuania. Financial institutions are excluded as eligible final beneficiaries.

(18) The number of beneficiaries is estimated at about 1300 undertakings active in the aforementioned sectors.

(19) Under the first sub-measure, aid in the form of interest and guarantee premium compensation will be granted to the following economic entities:

- undertakings in rural areas active in the primary production of agricultural products (including cooperatives);
- recognized agricultural cooperative companies (cooperatives) active in the processing and marketing of agricultural products[4];
- cooperative companies (cooperatives) which do not have the status of a recognized agricultural cooperative active in the processing and/or trade of agricultural products which have been operating for no more than 2 years, if the value of agricultural products purchased from their members is more than 50% of the value of all agricultural products purchased during the last four quarters preceding the submission of the application for compensation.

[3] 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 of 26.6.2014, p. 1.

[4] In accordance with the Act of the Republic of Lithuania on Cooperative Societies (Cooperatives) and the Order of the Minister of Agriculture of the Republic of Lithuania No. 3D-435, 22 July 2016 "On the approval of the description of procedures for the recognition of cooperative societies (cooperatives) as agricultural cooperative societies (cooperatives) and of the form of the certificate on the compliance of cooperative society (cooperative) with the requirements established by the Republic of Lithuania Law on Cooperative Societies (cooperatives)".

(20) Under the second sub-measure, aid will be granted in the form of guarantees on loans provided to entities active in agriculture, food, forestry, rural development and fisheries.

(21) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the Agricultural Block Exemption Regulation (“ABER”)[5] or the Fisheries Block Exemption Regulation (“FIBER”)[6] on 31 December 2019.

(22) Aid is granted under the measure through either financial institutions (banks, credit unions) for loans or financial leasing companies for financial lease (leasing) services that are authorised to operate in Lithuania (the "financial intermediaries”).

2.6. Sectoral and regional scope of the measure

(23) The measure is open to undertakings operating in the agriculture, food, forestry, rural development and fisheries sectors. It excludes undertakings operating in the financial sector.

(24) The measure applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

(25) The measure comprises two sub-measures. First, direct grants for interest and guarantee premium compensation, which is modelled upon Section 3.1 of the Temporary Framework. Second, guarantees on new and existing loans, which is modelled upon Section 3.2 of the Temporary Framework. .

2.7.1. Sub-measure 1: Direct grants for interest and guarantee premium compensation

(26) The following is compensated under the first sub-measure:

(a) investment and working capital loan or leasing services guarantee premiums; and

(b) interest paid on guaranteed and non-guaranteed investment and working capital loans and leasing services.

(27) The conditions for compensating guarantee premiums as laid down in recital (26)(a) are:

(a) 100 % loan or leasing services guarantee premium compensation between the entry into force of the scheme and 31 December 2020.

(28) The conditions for compensating interests as laid down in recital (26)(b) are:

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[5] 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 on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1–75.

[6] Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 369, 24.12.2014, p. 37–63.

(a) Where either (i) the loan (excluding credit lines) was granted and/or leasing services were purchased after the entry into force of the scheme, or (ii) where the loan was granted and/or leasing services were purchased before the entry into force of the scheme and no State aid and/or *de minimis* aid was previously granted to compensate for the interest:

– 100% of the interest paid between the date of signing the loan or leasing contract (for loans granted or leasing services purchased after the entry into force of the scheme, for those granted or purchased before the entry into force of the scheme the 36 month period would run from 1 June 2020) until 31 December 2020 and 80% of the interest paid from 1 January 2021 until the end of the 36th month from the signing the loan or leasing agreement can be compensated,

– The compensation is calculated for loans and leasing contracts up to a maximum annual interest rate of 8%.

(b) Where (i) a guaranteed loan (excluding credit lines) was granted and/or (ii) guaranteed leasing services were purchased and/or (iii) a non-guaranteed loan was granted under the financial instruments implemented by the Agricultural Credit Guarantee Fund before the entry into force of the scheme and the loan/leasing services were previously the subject of a State aid decision and/or *de minimis aid* interest compensation:

– 100% of the interest paid between 1 June 2020 until 31 December 2020 will be compensated, but interest only shall be compensated for those months for which interest has not been reimbursed in accordance with the previous State aid decisions;

– the compensation is calculated for loans and leasing contracts up to a maximum annual interest rate of 8%.

(c) Where the credit line was taken out before the entry into force of the scheme and was not previously the subject of a State aid decision and/or *de minimis* interest compensation:

– 100 % of the interest paid for the period between 1 June 2020 until 31 December 2020, but interest shall only be compensated for those months for which interest has not been reimbursed in accordance with the previous State aid decisions;

– the compensation is calculated for loans and leasing contracts up to a maximum annual interest rate of 8%.

(29) Where the period of the loan or financial lease agreement is extended, the period for interest compensation shall not be extended. Interest and default interest calculated by a financial institution or a financial leasing company on overdue loans or financial leasing agreements are not eligible for compensation.

(30) Applicants must apply for aid under the scheme by 20 December 2020:

(a) in the cases specified in recitals (28)(a) and (c): to the administration of the municipality where the agricultural holding is registered,

(b) in the case specified in recital (28)(b): to the municipal administration that previously issued a decision on granting state aid and/or *de minimis* aid to compensate for interest paid on the same loan and/or the same financial lease services.

(31) The total amount of aid granted to an undertaking under the scheme cannot exceed the overall amount of EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products.

(32) Where the undertakings are active in the processing and marketing of agricultural products, the aid shall not be, partly or entirely, passed on to primary producers and shall not be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.

(33) Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014.

(34) If the applicant is active in several sectors, the relevant ceiling shall be respected for each of these activities and the highest possible amount of EUR 800 000 in total shall not be exceeded.

2.7.2. Sub-measure 2: Guarantees on loans

(35) Loans covered by guarantees under this sub-measure shall have the following features:

(a) The loans are new or existing working capital or investment loans;

(b) The maximum loan maturity is set at six years;

(c) The duration of the guarantee is limited to a maximum of six years. Financial intermediaries will assume at least 10 percent losses of the loan. When the size of the loan decreases over time, for instance because the loan starts to be reimbursed, the guaranteed amount must decrease proportionally (see recital (37) below).

(d) The amount of the loan (or financial lease agreement) per undertaking does not exceed whichever of the following is the highest:

– double the annual wage bill of the beneficiary (including related taxes) for 2019. In the case of undertakings created on or after January 1, 2019, the maximum loan or financial lease agreement amount must not exceed the estimated annual wage bill for the first two years in operation; or

– 25% of the total turnover of the beneficiary in 2019; or

– if the entity duly justifies the liquidity need, which will be established through self-certification by the beneficiary, the loan or financial lease agreement amount may exceptionally be increased to cover liquidity needs for the coming 18 months for beneficiaries who are classified as very small, small or medium-sized enterprises, as defined in Annex I of the ABER[7], and for the coming 12 months, for beneficiaries which are classified as large enterprises. The Lithuanian authorities explained that this option can only be used for cases where the maximum loan amounts indicated in Articles 25(d)(i) and 25(d)(ii) of the Temporary Framework is not adequate to meet the liquidity needs of SMEs and large enterprises. They explained that this option can be used to meet the liquidity needs of smaller entities with low wage costs and volatile annual turnover which may be higher in the coming months than the maximum loan amount allowed (25 % of 2019 turnover or double the 2019 annual wage). This option would also be appropriate for fast-growing entities where the maximum loan amount would be insufficient for 18 months (in case of SMEs) and 12 months (in the case of large companies) to address the liquidity situation. In order to benefit from the guarantee for a higher loan amount, an entity will be required to provide a reasonable justification as to why its liquidity needs require higher credit, and to provide forecast of foreseen expenditure for the specified months. Each application to issue guarantees for the higher amount of loans will be evaluated by the Lithuanian authorities on a case-by-case basis, analyzing the justification provided by the entities that the loan amounts established in articles 25(d)(i) and 25(d)(ii) of the Temporary Framework would be insufficient to meet the needs of the coming months and forecasts of liquidity needs.

(e) Any entity applying for a guarantee (both for loans up to the maximum possible amount and for loans exceeding the maximum possible amount set in articles 25(d)(i) and 25(d)(ii) of the Temporary Framework) will have to fulfil one of the following conditions:

– the value of the emergency coverage (critical liquidity) ratio (Current assets – Inventories) / Current liabilities) of the entity is less than 1;

– the value of the debt ratio (Liabilities / Assets) of the entity is higher than 0.6;

– the turnover of the entity has decreased by more than 10 %. The average monthly turnover of the entity in the period from 16 March 2020 until the day of submission of the application documents to the responsible authority will be compared to the average monthly turnover during 2019.

(36) The guarantees shall have the following features:

(a) The guarantees are granted no later than on 31 December 2020;

(b) The maximum guaranteed amount cannot exceed EUR 5 million;

(c) The one-time guarantee premiums are paid by the undertakings to the Agricultural Credit Guarantee Fund for the provision of a guarantee.

[7] 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 on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1–75.

Guarantee premiums are flat and calculated on the basis of the maturity of the guarantee, as explained in point (d) below. Lithuania confirmed that, in any event, the premiums per individual loan or financial lease agreement will not be lower than the values set out in Table 1 below:

Table 1: guarantee premiums

Beneficiary	For 1^{st} year
SMEs	30bps
Large undertakings	55 bps

(d) If the term of the loan or financial lease agreement is longer than one year, the guarantee premium shall be calculated by multiplying the amount of the one-year guarantee premium by the number of years of the loan or financial lease agreement duration;

(e) The duration of the guarantees matches that of the loans and is limited to a maximum of six years.

(37) The coverage of the guarantees is as follows:

(a) up to 90 percent:

– repayment of the unrecovered part of a loan, when the losses of the unrecovered loan amount are covered proportionally and on equal terms by the financial institution and the Agricultural Credit Guarantee Fund. As the amount of the loan decreases, the guaranteed amount of the unrecovered loan decreases proportionally;

– payment of an unrecovered financial lease agreement or its part for production equipment and (or) machinery purchased by economic entities, when the losses of the unrecovered financial lease agreement or its part are covered proportionally and on equal terms by the financial leasing company and the Agricultural Credit Guarantee Fund. As the amount of the financial lease agreement decreases, the guaranteed amount of the unrecovered financial lease agreement decreases proportionally;

(b) up to 35 percent:

– repayment of outstanding loan amounts, when the losses of the outstanding loan amount are first attributed to the Company and only then to the financial institution. As the amount of the loan decreases, the guaranteed amount of the outstanding loan decreases proportionally;

– payment of outstanding financial lease agreements for production equipment and (or) machinery purchased by economic entities, when the losses of outstanding financial lease agreement are first attributed to the Company and only then the financial leasing company. As the amount of the financial lease agreement decreases, the guaranteed amount of the outstanding financial lease agreement decreases proportionally.

(38) Guarantees are provided to financial institutions for working capital loans, including salaries, wages and related taxes and for investment loans. Guarantees may be provided for loans granted before the entry into force of the amended Regulations on Individual Guarantees issued by the Agricultural Credit Guarantee Fund and which are not guaranteed by the Agricultural Credit Guarantee Fund (only if loan repayment is deferred and additional collateral is required) and to refinance an unsecured loan issued by another financial institution.

(39) Losses are sustained proportionally by the financial intermediary and the guarantor. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally.

(40) The mobilisation of the guarantees is contractually linked to specific conditions, which are agreed between the parties when the guarantee is initially granted.

(41) The guarantees are granted upon the examination of the request of the undertakings. The measure contains safeguards to ensure that the aid reaches the undertakings as laid down in points (a) to (c) below. The financial intermediaries have to declare the manner in which they will pass on the advantage of the guarantee to the final beneficiaries of the measure. The advantage is communicated to the final beneficiary when the guarantee is granted. In particular:

(a) financial intermediaries receiving State guarantees, both for new and old loans, will be required to certify that loan administration fees, interest and other payments paid by the borrowers are in line with the normal activities and practices of the financial intermediary and, when required by the Agricultural Credit Guarantee Fund, provide evidence to that effect;

(b) this measure will be open to all financial institutions to compete with each other. This competition will lower interest rates and thus ensure that the aid is passed on to the final beneficiaries;

(c) by receiving guarantees, a financial institution will not benefit from reducing its bad loan portfolio since non-performing loans will not be guaranteed. Guarantees are provided only for loans that are used to finance commercially viable and creditworthy projects, but where the entity does not have the assets to secure the obligation to obtain a loan.

2.8. Cumulation

(42) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under the different *de minimis* Regulations[8] or the different

[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), 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), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

Block Exemption Regulations[9] provided the provisions and cumulation rules of those Regulations are respected.

(43) The Lithuanian authorities confirm that aid under the measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.

(44) The Lithuanian authorities confirm 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.

(45) The Lithuanian 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 points 23(a) and 23bis of that framework, shall be respected.

(46) The Lithuanian authorities confirm that aid granted under Section 3.2 of the Temporary Framework shall not be cumulated with aid granted for the same underlying loan principal under Section 3.3 of that framework and vice versa. Aid granted under Section 3.2 and Section 3.3 may be cumulated for different loans provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) or in point 27(d) of the Temporary Framework.

(47) A beneficiary may benefit in parallel from multiple schemes under Section 3.2 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) of the Temporary Framework.

2.9. Monitoring and reporting

(48) The Lithuanian 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 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[10]).

[9] 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 of 26.6.2014, p. 1, 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 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

[10] 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. For guarantees, loans, and other forms of aid, the nominal value of the underlying instrument shall be inserted per beneficiary.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(50) 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.

(51) The measure is imputable to the State, since it is administered by the Agricultural Credit Guarantee Fund and local municipalities (recital (13)) and it is based on the draft legal bases described in recital (11). It is financed through State resources, since it is financed by public funds.

(52) The measure confers an advantage on its beneficiaries in the form of direct grants and subsidised guarantees on loans, as described in recital (10). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(53) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in agriculture, food, forestry, rural development or fisheries, as described in recitals (19) and (20), excluding the financial sector.

(54) 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.

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

3.3. Compatibility

(56) 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.

(57) 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*".

(58) 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".

(59) The measure aims at reducing financing risk at a time when the normal functioning of credit 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.

(60) The measure is one of a series of measures conceived at national level by the Lithuanian authorities to remedy a serious disturbance in their economy. The importance of the measure to reduce the shortage of working capital needed to buy agricultural products and settle accounts with farmers, and to facilitate access to loans for improving the liquidity of undertakings during the COVID-19 outbreak, is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Lithuanian economy. The measure is justified by the unprecedented crisis that the agricultural sector is undergoing due to the closure of many market sectors, the severe disruption of export channels, as well as the reduction of available workers and increased logistical difficulties. Furthermore, the measure has been designed to meet the requirements of specific categories of aid "*Aid in the form of direct grants*" described in Section 3.1 of the Temporary Framework, "*Aid in the form of guarantees on loans*" described in Section 3.2 of the Temporary Framework, and the requirements for aid in the form of guarantees and loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

(61) 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:

(62) As regards the part of the measure concerning direct grants for interest and guarantee premium compensation (sub-measure 1):

– The aid takes the form of direct grants (recital (10)).

– The overall nominal value of the direct grants does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector (recital (31)) or EUR 100 000 per undertaking active in the primary production of agricultural products (recital (31)). 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 (15). The measure therefore complies with point 22(b) of the Temporary Framework;

– Aid will not be granted to undertakings under the measure that were already in difficulty on 31 December 2019 (recital (21)). 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 (recital (16)). 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 are excluded when the aid is conditioned on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers. 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 (recital (32)). The measure therefore complies with point 23(b) of the Temporary Framework;

- Aid granted to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k), of Commission Regulation (EU) No 717/2014 (recital (33)). The measure therefore complies with point 23(c) 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, Lithuania 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 800 000 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 120 000 is not exceeded per undertaking (recital (34)). The measure therefore complies with point 23bis of the Temporary Framework.

(63) As regards the part of the measure concerning guarantees on loans (sub-measure 2):

- The measure sets minimum levels for guarantee premiums, described in recital (36), in line with the guidance in point 25(b) of the Temporary Framework. The measure therefore complies with the guidance provided in point 25(b) of the Temporary Framework.

- Guarantees may be granted under the measure by 31 December 2020 at the latest (recitals (14) and (36)). The measure therefore complies with point 25(c) of the Temporary Framework.

- For loans with a maturity beyond 31 December 2020, the maximum loan amount per beneficiary covered by guarantees granted under the measure is limited in line with point 25(d) of the Temporary Framework (recital (35)). The Lithuanian authorities have explained (recital (35)) that the option provided for in point 25(d)(iii) of the TF can only be used exceptionally and with proper justification and self-certification by the beneficiary of its liquidity needs.

- The measure limits the duration of the guarantees to a maximum of 6 years (recitals (35) to (36)). Those guarantees cover 90% or less of the loan principal (recital (37)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (37)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to investment and working capital loans (recital (26)). The measure therefore complies with point 25(g) of the Temporary Framework.

- Undertakings already in difficulty on 31 December 2019) are excluded from benefitting from the measure (recital (21)). The measure therefore complies with point 25(h) of the Temporary Framework.

- The measure introduces safeguards in relation to the possible indirect aid in favour of the financial intermediaries through which the guarantees are granted to limit undue distortions to competition. In particular, financial intermediaries receiving State guarantees, both for new and existing loans, will be required to certify that loan administration fees, interest and other payments paid by the borrowers are in line with the normal activities and practices of the financial intermediary and, when required by the Agricultural Credit Guarantee Fund, provide evidence to that effect. The measure will be open to all financial institutions to compete with each other, this will lower interest rates and thus ensure that the aid is passed on to the final beneficiaries. By receiving guarantees, a financial institution will not benefit from reducing its bad loan portfolio since non-performing loans may not be guaranteed. Guarantees will be provided only for loans that are used to finance commercially viable and creditworthy projects, but where the entity does not have the assets to secure the obligation to obtain a loan. These safeguards ensure that these institutions pass on the advantages of the measure, to the largest extent possible, to the final beneficiaries (recital (41)). The measure therefore complies with points 28 to 31 of the Temporary Framework.

- The cumulation rules set out in point 24bis of the Temporary Framework are respected (recitals (42) to (47)).

- The mobilisation of the guarantees is contractually linked to specific conditions which have to be agreed between the parties when the guarantee is initially granted (recital (40)).

(64) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected (recital (48)). The Lithuanian 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 (recital (42) and (44)).

(65) 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. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU) 806/2014

(66) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"**BRRD**"**)[11] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (**"**SRMR**"**),[12] in the event that an institution benefiting from the measures meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified measures do not appear to violate intrinsically linked provisions of the BRRD and the SRMR.

(67) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU in line with the Temporary Framework, which is channeled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.[13] Nevertheless, any such indirect aid granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a result, aid granted under the measure does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD and Art. 3(1) No 29 SRMR.

(68) Moreover, as indicated in recital (41) above, the measure introduces safeguards in relation to any possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest extent possible, pass on the advantages provided by the measure to the final beneficiaries.

(69) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD and the SRMR.

5. 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.

[11] OJ L 173, 12.6.2014, p. 190-348.
[12] OJ L 225, 30.7.2014, p. 1-90.
[13] Points 6 and 29 of the Temporary Framework.

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

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION