



EUROPEAN COMMISSION

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**Subject: State Aid - Lithuania  
Aid No N 686/2009  
Limited amounts of compatible aid under the Temporary Framework  
for agricultural entities active in the primary production of  
agricultural products**

Sir,

The European Commission wishes to inform Lithuania that, after examining the information supplied by your authorities on the aid referred to above, it has decided to raise no objections to the aid in question, as it is compatible with the Treaty on the Functioning of the European Union (TFEU).

*The Commission has taken this decision on the basis of the following considerations:*

#### **1. PROCEDURE**

- (1) By electronic notification of 11 December 2009, the Lithuanian authorities notified a temporary aid scheme for granting limited amounts of compatible aid under the Temporary Framework for State aid measures to support access to finance in the current financial and economic crisis" (hereinafter referred to as the Temporary Framework)<sup>1</sup>.

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<sup>1</sup> 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 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.

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## **2. DESCRIPTION OF THE AID SCHEME**

### **2.1. Objective of the aid scheme**

- (2) Lithuania aims at supplying the above mentioned state aid scheme to remedy the serious disturbance in its economy.
- (3) Lithuania considers that the financial crisis is affecting its real economy. According to the information of the Department of Statistic under the Government of the Republic of Lithuania (hereinafter – Statistics Lithuania), the effect of economic difficulties for Lithuanian economy is distinct: gross domestic product (hereinafter – GDP), estimated on the basis of available statistical data and econometric models, in III quarter 2009 made LTL 23713.3 million at current prices and, against III quarter 2008, dropped by 14.3 %. Over nine months of 2009 Lithuanian's GDP decreased by 15.7 % compared to the corresponding period of 2008. Over nine months of 2009 the most rapid decrease of the value added was observed in enterprises related to consumption.
- (4) The Statistics Lithuania informs that, based on the Labour Force Survey (LFS) data, the number of the unemployed and the unemployment rate was increasing. The increase in unemployment was influenced by the economic decline and by a rapid decrease in the number of job vacancies. In I quarter 2009 against IV quarter 2008, unemployment increased 1.5 times. In II quarter 2009 the number of the unemployed reached 223 000 and the unemployment rate in the Lithuania reached 13.6 %.
- (5) The Lithuanian authorities consider that the crisis has as well considerably hit the agriculture sector. The financial and economic crisis in Lithuanian agriculture sector resulted insufficient income of farmers. According to the research performed by the Lithuanian Institute of Agrarian Economics during the period of economic and financial crisis (2009 and the end of 2008) export and demand for agricultural products has declined. The supply of agricultural products has driven the producer prices down.
- (6) In 2009, the economic and financial crisis substantially declined producer prices of agricultural products in Lithuania: in the first quarter producer prices of agricultural products declined by 27 % compared to the first quarter of 2008, by 25.3 % in the second quarter compared to the second quarter of 2008 and by 8 % in the third quarter compared to the third quarter of 2008. Crop producer prices have been especially significantly hit by this decrease: over the same reference period producer prices of crop products declined accordingly by 33.6 %, 35.7 % and 17.9 % (the data of the Statistics Lithuania). The volume of gross agricultural production in I quarter of 2009 decreased by 4.7 % as compared to I quarter of 2008, in quarter II of 2009 the volume of gross agricultural production decreased even more – by 5.6 % as compared to II quarter of 2008.
- (7) According to the Lithuanian authorities due to the financial and economic crisis it has become significantly more difficult and more expensive for agricultural producers to take out loans. At the end of 2008 and in 2009, in view of farmers' lack of equity capital and the high interest rates practised by credit institutions on loans, farmers' prospects of taking out loans were drastically reduced (in IV quarter of 2008 and in 2009 credit interest rates on loans for the agricultural entities varied from 9.51 % to 15.99 % per annum).

- (8) The notified measure complements other measures already put in place which aim at remedying the serious disturbance in the economy of Lithuania<sup>2</sup>.
- (9) The scheme is expressly based on Article 107(3)(b) TFEU as interpreted 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.

## **2.2. The nature and form of the aid**

- (10) The aid will be provided in the form of direct grant.

## **2.3. Legal basis**

- (11) *Laikinosios valstybės pagalbos teikimo siekiant sumažinti finansų ir ekonomikos krizės poveikį žemės ūkiui taisyklės.*
- (12) The rules will enter into force upon its approval by the Commission.

## **2.4. Administration of the scheme**

- (13) Specific administrative procedures will be defined by the Minister of Agriculture of the Republic of Lithuania.

## **2.5. Budget and duration of the measure**

- (14) The overall amount available under this scheme will be 10 000 000 LTL (approximately 2 896 200 EUR).
- (15) Aid can be granted from the approval of the scheme by the Commission until 31 December 2010.

## **2.6. Beneficiaries**

- (16) Over 1000 undertakings active in the primary production of agricultural products.
- (17) The state aid could be granted to all firms (large, small and medium size enterprises).
- (18) Only those agricultural producers that were not firms in difficulty<sup>3</sup> on 1 July 2008 can benefit from the aid. The aid may be granted to undertakings that entered into difficulties after this date due to the economic and financial crisis.

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<sup>2</sup> N 272/2009 "Limited amounts of compatible aid in the form of guarantees to credit institutions for loans taken by SMEs and large enterprises during the financial and economic crisis" (as amended by N 523/2009).

<sup>3</sup> Within the meaning of point 2.1 of the Community guidelines on State aid for rescuing and restructuring for firms in difficulty (OJ C 244, 1.10.2004, p.2) as regards large firms and within the meaning of Article 1 (7) of the General Block Exemption Regulation (Regulation (EC) No 800/2008, OJ L 214, 9.8.2008, p.3)) as regards SMEs.

## **2.7. Sectoral scope, exclusion of export aid and aid favouring domestic over imported products**

- (19) The scheme applies to the whole sector of primary agricultural production. According to the Lithuanian authorities it does not apply to aids targeting specific agricultural products but will be open to all sub-sectors of agricultural production.
- (20) The scheme does not apply to export aids or aids favouring domestic over imported goods.

## **2.8. Aid measure**

- (21) The Lithuanian authorities confirm that the conditions laid down in section 4.2.2 of the Temporary Framework (as amended) for granting limited amounts of compatible aid to agricultural undertakings will be fully met. In particular,
- the aid shall not exceed 15 000 EUR per undertaking; all figures used shall be gross, that is, before any deduction of tax or other charge;
  - before granting the aid, the aid granting authorities shall obtain from the undertakings concerned a declaration about any *de minimis* aid (as defined in Commission Regulation (EC) No 1535/2007) or aid granted under this measure received in the period since 1 January 2008;
  - the total amount of *de minimis* aid and aid granted under this measure per undertaking in the period 1 January 2008 to 31 December 2010 may not exceed 15 000 EUR;
  - where the aid granted under this measure is to be combined with other compatible aid or with other forms of Community financing, the maximum aid intensities indicated in the relevant Guidelines or Block exemption regulations will be respected;
  - the aid is not fixed on the basis of the price or quantity of products put on the market.

## **2.9. Monitoring and reporting, business secrets, language waiver**

- (22) The Lithuanian authorities confirm that the monitoring and reporting obligations laid down in Section 6 of the Temporary Framework will be respected (e.g.: detailed records regarding the granting of aid must be maintained for 10 years; before 31 October of each year during which the Temporary Framework is applicable, a report on the measures put in place should be provided).
- (23) The Commission notes that the Lithuanian authorities have confirmed that the notification does not contain business secrets.
- (24) The Lithuanian authorities confirm their acceptance that the Commission decision is adopted in the English language, due to exceptional circumstances.

### **3. ASSESSMENT UNDER COMPETITION RULES**

#### **3.1. Legality of measure**

- (25) By notifying the aid measure before putting it into effect, the Lithuanian authorities respected their obligations under Article 108(3) of the Treaty on the Functioning of the EU (TFEU).

#### **3.2. Presence of aid within the meaning of Article 108(3) of the TFEU**

- (26) Under Article 107(1) of the TFEU, aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, insofar as it affects trade between Member States, is incompatible with the common market.
- (27) The aid at issue is financed out of State resources and benefits certain undertakings (cf. point 2.6.). Pursuant to the case law of the Court of Justice, aid to an undertaking is deemed to affect trade between Member States if that undertaking operates in a market open to intra-Community trade.<sup>4</sup> The mere fact that the competitive position of an undertaking is strengthened compared with other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition.<sup>5</sup> The beneficiaries of the aid at issue operate on a market where intra-community trade takes place.<sup>6</sup> The aid measure could therefore distort competition and affect trade between Member States and consequently constitutes aid pursuant to Article 107(1) of the TFEU.
- (28) In light of the above, the conditions of Article 107(1) are fulfilled. It can therefore be concluded that the proposed measure constitutes State aid within the meaning of that Article. The aid may only be considered compatible with the common market if it can benefit from one of the derogations provided for in the Treaty.

#### **3.3. Compatibility of aid pursuant to Article 107(3)(b)**

- (29) Having established that the measure involves state aid within the meaning of Article 107(1) of the TFEU, it is necessary to consider whether the above mentioned measure can be found compatible with the internal market.
- (30) The information supplied by the Lithuanian authorities and described in paragraphs (3)-(7) above, indicate a considerable downturn in Lithuania's overall economy and in the agricultural sector.
- (31) Lithuania already implemented the measures which aim at remedying the serious disturbance in its economy (cf. paragraph (8) in connection with footnote 2). By complementary granting limited compatible amounts aid to agricultural

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<sup>4</sup> See, in particular, judgment of the Court of 13 July 1988, Case 102/87, French Republic v Commission of the European Communities, ECR 1988, p. 4067.

<sup>5</sup> Judgment of the Court of 17 September 1980, Case 730/79, Philip Morris Holland BV v Commission of the European Communities, ECR 1980, p. 2671.

<sup>6</sup> Lithuania's intra-EU imports and exports of agricultural products in 2007 stood at EUR 1 414 million and EUR 1 286 million respectively (Source: EUROSTAT and DG AGRI).

undertakings (15 000 EUR per undertaking during 2010) the Lithuanian authorities aim at supporting those undertakings that have an increased financing need due to the current crisis. Thus, the measure contributes to remedying the severe disturbance in the economy of Lithuania.

- (32) By adopting the Temporary Framework, the European Commission indeed acknowledged (section 4.1) the "seriousness of the current financial crisis and its impact on the overall economy of the Member States". The Commission concluded "that certain categories of State aid are justified, for a limited period, to remedy these difficulties and that they may be declared compatible with the common market on the basis of Article 107(3)(b) of the TFEU." The European Commission in its Communication of 28 October 2009 furthermore recognised increased difficulties for farmers to obtain credit as a consequence of the financial crisis and extended the scope of section 4.2.2 ("Compatible limited amount of aid") of the Temporary Framework by introducing a separate compatible limited amount of aid possibility for undertakings active in primary agricultural production.
- (33) The European Commission considers that the macroeconomic data for the Lithuanian economy including the whole agriculture sector justify the introduction of a complementary scheme for undertakings active in primary agricultural production.

#### **3.4. Compliance with the requirement of the Temporary Framework as amended in Section 4.2.2**

- (34) The notified measure has been designed to meet the requirements of the additional category of aid ("Compatible limited amount of aid") described in section 4.2.2 of the Temporary Framework as amended.
- (35) The Lithuanian authorities confirmed that the scheme does not apply to aids targeting specific agricultural products but will be open to all sub-sectors of agricultural production (cf. paragraph (19)).
- (36) By excluding firms in difficulty (cf. paragraph (19)) on 1 July 2008 from the scope of the scheme, it is excluded that aid is granted to primary agricultural producers who were encountering difficulties before the beginning of the current economic and financial crisis. Lithuania therefore complies with Article 4.2.2 (c) of the Temporary Framework.
- (37) The aid is not granted as export aid or aid favouring domestic product over imported products (Article 4.2.2 (e) of the Temporary Framework). As described above in paragraph (20), Lithuania complies with this requirement.
- (38) Article 4.2.2(h) of the Temporary Framework requires that the state aid should not be fixed on the basis of the price or quantity of products put on the market. Lithuania complies with this requirement (cf. paragraph (21)).
- (39) On the basis of Article 4.2.2(h) of the Temporary Framework, the state aid granted to undertaking active in the primary production of agricultural products should not exceed the maximum amount of cash equivalent of 15 000 EUR per undertaking. Lithuania complies with this requirement (cf. paragraph (21)).

- (40) Article 4.2.2(g) of the Temporary Framework requires that prior to granting the aid, the Member State obtains a declaration from the undertaking concerned, in written or electronic form, about any other *de minimis* aid and aid pursuant to this measure received during the current fiscal year and checks that the aid will not raise the total amount of aid received by the undertaking during the period from 1 January 2008 to 31 December 2010 to the level above the ceiling of 15 000 EUR. As described in paragraph (21) above, Lithuania complies with this requirement.
- (41) Paragraph 2 of Article 4.7 of the Temporary Framework specifies that if the undertaking has already received *de minimis* aid prior to the entry into force of the Temporary Framework the sum of the aid received and the *de minimis* aid should not exceed 15 000 EUR granted to primary agricultural producers between 1 January 2008 and 31 December 2010. The amount of *de minimis* aid received from 1 January 2008 should be deducted from the aid granted under the Temporary Framework. Lithuania complies with these provisions (cf. paragraph (21)).
- (42) Article 4.7 of the Temporary Framework further states that the temporary aid measure may be cumulated with other compatible aid or with other forms of Community financing provided that the maximum aid intensities indicated in the relevant guidelines or block exemptions Regulations are respected. Lithuania complies with this provision (cf. paragraph (21)).
- (43) On the basis of Article 4.2.2 (f) of the Temporary Framework, the temporary aid should not be granted later than 31 December 2010. As paragraph (15) above specifies Lithuania will grant the state aid respecting this time limit.
- (44) Article 6 of the Temporary Framework lays down rules on monitoring and reporting by Member States. Lithuania complies with those rules, as specified in paragraph (22).
- (45) On the basis of the above described and analysed information, the European Commission considers that the notified measure, also in the context of other measures already put in place, is necessary, appropriate and proportionate to remedy the serious disturbance in Lithuania's economy and meets all the conditions of the Temporary Framework. For these reasons, the notified state aid scheme is compatible with the internal market under Article 107(3)(b) of TFEU.
- (46) The European Commission notes that the Lithuanian authorities have confirmed that the notification contains no business secret and that this decision can be adopted in English due to the exceptional circumstances.

#### **4. CONCLUSION**

- (47) On the basis of the above considerations, the European Commission has decided not to raise any objections to the notified temporary state aid scheme and has accordingly decided to consider the aid to be compatible with the internal market under Article 107(3)(b) of the TFEU.

Yours faithfully,

For the Commission

Günter VERHEUGEN  
Vice-President of the Commission