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SENSITIVE*: *COMP Operations*

Subject: **State Aid /Belgium (Flanders) - SA.110019 (2023/N)**
Support for the voluntary cessation of livestock farming in respect of holdings indicated with orange colour (*oranje bedrijven*) and of holdings in special area of conservation with area specific measures (*in de maatwerkgebieden ligt*) in order to implement the programmatic nitrogen approach

Excellency,

The European Commission ('the Commission') wishes to inform Belgium that, having examined the information supplied by your authorities on the three aid measures notified as a scheme, it has decided not to raise any objections to the relevant scheme ('the scheme', see recitals (5) and (10)) as it is compatible with the internal market pursuant to Article 107(3), point (c) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) On 8 November 2023, registered by the Commission on the same day, Belgium notified three measures as a scheme, according to Article 108(3) TFEU. The Commission sent a request for additional information to the Belgian authorities on 18 December 2023 to which they replied on 17 January 2024.
- (2) On 9 February 2024, a meeting was held between the Commission and the Belgian authorities, following which the Commission sent an information request on 19 February 2024. The Belgian authorities replied to the information request on 29 March 2024. Related to the replies, the Commission sent a further

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information request on 22 April 2024 to which the Belgian authorities replied on 21 May 2024 and on 12 June 2024.

- (3) Belgium exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958 ⁽¹⁾ and to have this Decision adopted and notified in English.

2. DETAILED DESCRIPTION OF THE SCHEME

2.1. Title

- (4) Support for the voluntary cessation of livestock farming in respect of holdings indicated with orange colour (*oranje bedrijven*) and of holdings in special area of conservation with area specific measures (*in de maatwerkgebieden ligt*) (referred to as “specific area”) in order to implement the programmatic nitrogen approach.

2.2. Objective

- (5) The scheme is part of the programmatic approach to nitrogen [Programmatische Aanpak Stikstof (‘PAS’)] approved by the Flemish Government on 10 March 2023. The objective of the scheme is to reduce in the short term the nitrogen deposition in the Habitats Directive ⁽²⁾ areas ⁽³⁾ caused by the holdings indicated in orange colour (‘orange holdings’) and livestock farms in a specific area (see recital (15(a)). The Decree of 26 January 2024, on the programmatic approach to nitrogen covers the five specific areas, including ‘Turnhouts Vennengebied’. In these areas, the generic PAS emission reduction scenario would lead to insufficient emission reductions to reach the 2030 target without additional measures, such as the notified voluntary closure scheme for the livestock sector on farms. The Belgian authorities explain that there is a market failure when it comes to closing production capacity for environmental reasons. The aid scheme provides an incentive for farmers who would not cease livestock farming otherwise for environmental and climate reasons. Farmers ceasing livestock production under the

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

⁽²⁾ Council Directive 92 /43 /EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7)

⁽³⁾ They are special areas of conservation designated pursuant to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, or any of the following: (a) an area designated by the Flemish Government pursuant to Article 4(4) of the aforementioned Directive or, pending such designation, an area definitively established by the Flemish Government pursuant to Article 36a (6) of the Decree of 21 October 1997 on nature conservation and the natural environment pursuant to the Decree of on nature conservation and the natural environment, or which is deemed to have been definitively established pursuant to Article 36a (12) of the aforementioned Decree; and (b) an area designated by the Walloon Region or the Brussels-Capital Region or another Member State of the European Union pursuant to Article 4(4) of the Directive or, pending that designation, a site proposed by one of the abovementioned regions or by another Member State pursuant to Article 4(1) of the Directive and declared to be of Community interest by the European Commission pursuant to Article 4(2) of the Directive.

scheme can also opt for investment aid for the conversion to arable crop farming ⁽⁴⁾ to improve the sustainability of their agricultural holdings.

(6) The Flemish Energy and Climate Plan 2021-2030 describes the measures to reduce emissions from the Effort Sharing Regulation (ESR) group by 2030. On 12 May 2023, the Flemish Government approved a new Flemish Energy and Climate Plan (Vlaams Energie- en Klimaatplan, VEKP). The plan strengthens efforts in the so-called ESR sectors. The ambition of the updated VEKP 2021-2030 for reducing greenhouse gas emissions in the ESR sectors is increased to – 40 % by 2030 (compared to 2005). The agricultural sector is the third largest ESR sector in terms of greenhouse gas emissions, accounting for 18 % of the total Flemish ESR emissions. The updated VEKP takes into account the agreements reached in the framework of the final PAS. The reduction of nitrogen emissions will lead to the reduction of greenhouse gas emissions. Reducing the livestock population means also that greenhouse gas emissions will decrease. The notified scheme is expected to contribute to reducing the emission of particles, methane and endotoxins, which contributes towards combating global warming. Overall, as described in recital (7), the scheme contributes towards the objectives of EU environmental protection legislation and to climate objectives, such as the European Green Deal ⁽⁵⁾, the EU Strategy on adaptation to climate change ⁽⁶⁾, the Habitats Directive and Water Framework Directive ⁽⁷⁾.

(7) Concretely, the Belgian authorities expect the following positive environmental impact of the scheme:

a) *Concerning nitrogen emissions and nitrogen deposition:* The annual stable emissions in Flanders amount to 24.386 tNH₃. The scheme aims to reduce such emissions caused by the stables, as indicated in the table below.

Maximum potential for reducing ammonia emissions	Livestock farms with impact score > 5% (orange holdings)	Livestock farms located in Turnhouts area	Livestock farms located in four other specific areas
Number of farmers	398	152	141
Reduction of stable emissions (in tNH ₃ /year)	1.274	386	135
Reduction of nitrogen deposition (in %)	5%	1,5%	0,5%

⁽⁴⁾ Arable crops farmer means within the draft Decree (recital (10)) “a farmer whose holding has a manure production of less than 300 kg P₂O₅, as referred to in Article 23, §1, 1° of the Manure Decree.”

⁽⁵⁾ COM/2019/640 final

⁽⁶⁾ COM/2021/82 final

⁽⁷⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1)

b) Environmental benefits in terms of water quality (objective of the Nitrates Directive ⁽⁸⁾): The Flemish manure policy implements the European Nitrates Directive and tackles the diffuse contamination of nutrients in surface and groundwater by the agricultural and horticultural sector. The manure policy is also embedded in a broader framework reducing the impact of nitrogen and phosphorus on the environment. In this way, the manure policy also contributes to the achievement of the objectives of the Water Framework Directive ⁽⁹⁾, which latter aims at bringing all bodies of water in Europe to good physical, chemical and ecological status. The cessation of manure production (through the cessation of stables and reduction of livestock) will greatly contribute to the reduction of diffuse nutrient contamination of surface and groundwater by the animal husbandry.

Maximum potential for the reduction of livestock	Livestock farms with an impact score > 5% (orange holdings)	Livestock farms located in Turnhouts area	Livestock farms located in four other specific areas
Reduction of the pig population (number of pigs)	305.830	37.357	9.442
Reduction of the cattle population (number of cattle)	59.035	28.823	11.511
Reduction of the poultry population (number of poultry)	3.366.158	1.079.714	245.395
Reduction of the horse population (number of horses)	1.077	351	643
Reduction of the other livestock (number of other livestock)	3.677	746	1.989

- (8) The Belgian authorities explain that the scheme contributes to the objectives of the Common Agricultural Policy ('CAP') because the PAS delivers towards the environmental and climate objectives of Regulation (EU) 2021/2015 ⁽¹⁰⁾ and

⁽⁸⁾ Council Directive concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC) (OJ L 375, 31.12.1991, p. 1), as amended.

⁽⁹⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽¹⁰⁾ Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 (OJ L 435, 6.12.2021, p. 1).

provides a complementary regional approach in support of the CAP's objectives ⁽¹¹⁾.

- (9) The closure of those farms that have the highest impact on nitrogen deposition and ammonia emissions from livestock farming close to nature areas will also create a more sustainable livestock sector for those operators who continue the economic activities. Thus, the scheme will contribute to the following general and specific objectives of Regulation (EU) 2021/2015:
- (a) Article 5 (a), fostering a smart, competitive, resilient and diversified agricultural sector for long-term food security;
 - (b) Article 5 (b), supporting and strengthening environmental protection, including biodiversity, and climate action, as well as contributing to achieving the Union's environmental- and climate-related objectives, including its commitments under the Paris Agreement;
 - (c) Article 5 (c), strengthening the social-economic fabric of rural areas;
 - (d) Article 6 (d), contributing to climate change mitigation and adaptation, including by reducing greenhouse gas emissions and enhancing carbon sequestration;
 - (e) Article 6 (e), fostering sustainable development and efficient management of natural resources such as water, soil and air;
 - (f) Article 6(f), contributing to halting and reversing biodiversity loss, enhancing ecosystem services and preserving habitats and landscapes.

2.3. Legal basis

- (10) The Decree of 26 January 2024 on the programmatic approach to nitrogen provides the legal basis for drawing up the notified scheme, which latter is part of the flanking policy to PAS. The legal basis of the notified scheme is the draft Flemish Government Decree on the accompanying policy for the implementation of the programmatic approach to nitrogen [*Besluit van de Vlaamse Regering over het flankerend beleid ter uitvoering van de programmatische aanpak stikstof*] ('draft Degree').

⁽¹¹⁾ Belgium confirms that its Common Agricultural Policy (CAP) Strategic Plan (SP) 2023-2027 includes support for sustainable productive investments on farms to make them more future-proof and more capable to respond to new public demands and better meet current societal expectations. Belgium demonstrated that the notified conversion aid (recital (17)(b)) is part of a package of measures with climate and environmental objectives containing more specific conditions, such as closing livestock farming and possible land purchase, for the notified aid than the CAP SP investment measure. Belgium explained that the coordination between the notified conversion aid and SP measure is difficult, therefore the cumulation rules will ensure the respect for the maximum aid intensity of the Guidelines (recital 45(b)).

2.4. Duration

- (11) Article 4 of the draft Degree lays down that the aid falling within the scope of Section 1.1.1.1, Section 1.3.1.1 and Section 1.1.10.2 of Part II of the Guidelines for State aid in the agricultural and forestry sectors and in rural areas ⁽¹²⁾ ('the Guidelines') will only be granted after the approval by the Commission. Furthermore, the Flemish Government confirmed not take any decisions on individual aid applications until the Commission has approved the notification. The last date until which individual aid may be granted under the scheme is 31 December 2027.

2.5. Budget

- (12) The overall budget for the scheme is EUR 60 million, which is financed by the regional budget of the Flemish Region.

2.6. Granting authority

- (13) The competent land commissions (*landcommissie*) ⁽¹³⁾ decide on the admissibility of the application and on the aid. Where an applicant objects the decision of the land commission, the Flemish Land Agency ('VLM') takes the final decision.

2.7. Form of aid

- (14) Closure aid and conversion aid (recital 17(a) and (b)) will be granted in the form of direct grants. The Belgian authorities explain that other forms of aid, such as low-interest loans or interest-rate subsidies or State guarantees, are not proportionate to the counterpart provided by the beneficiary who is closing the livestock production capacity. These other forms of aid rather aim at maintaining and expanding production capacity which would not meet the environmental objectives of the scheme.

2.8. Beneficiaries

- (15) Micro, small and medium-sized enterprises (SMEs) are eligible under the scheme. Large enterprises within the meaning of point (33)(36) of the Guidelines are excluded from aid under the scheme. Their number is estimated between 501 and 1000. They can be undertakings:
- a) whose livestock farming operation is situated in a specific area or within the zone of two kilometres around those areas, as indicated in the maps referred to in Annexes 3, 4, 5, 6 and 7 to the Decree of 26 January 2024 on the programmatic approach to nitrogen or
 - b) that are indicated with orange colour ('orange holding'), whose operation as referred to in Article 2 (9) of the Decree of 22 December 2006 establishing a common identification of farmers, operations and agricultural land in the

⁽¹²⁾ OJ C 485, 21.12.2022, p. 1.

⁽¹³⁾ These are technical committees, established by the Land establishment Decree and include officials from various agencies and from the departments of the Flemish government. They have legal personality and are independent.

framework of fertiliser policy and agricultural policy, has an impact score ⁽¹⁴⁾ that is at least 5 % or more.

- (16) The aid under the scheme will not be granted to undertakings, which are:
- a) in difficulty within the meaning of point (33)(63) of the Guidelines (in accordance with point (23) of the Guidelines);
 - b) subject to an outstanding recovery order following a previous Commission decision declaring an aid unlawful and incompatible with the internal market (in accordance with point (25) of the Guidelines).

2.9. Description of the scheme

- (17) Under the notified scheme, livestock farmers have different options:
- a. receive compensation for the closure of their livestock farming activities on the concerned site ('closure aid'),
 - b. in addition to the closure aid also opt for a conversion of the business into arable crop farming with an investment aid ('closure aid combined with investment aid' or 'conversion aid'), or
 - c. in addition to a) or b) above, they can also rely on a one- time business advice supported with State aid ('advisory services').
- (18) The applicants can apply for the following aid components:
- a) Closure aid for abandoning the livestock sector:
 - i. compensation for the loss of use of goods (whether or not owned by the applicant) the use of which is discontinued as a result of renouncing the economic activities in the livestock sector, consisting of loss of profit, loss of animals, loss of buildings, loss of materials, loss of cancelled nutrient allowances (verlies van nutriëntemissierechten die geannuleerd worden);
 - ii. where applicable, compensation for the cost of demolition of farm buildings by an approved demolition company;
 - iii. where appropriate, compensation for the agricultural land belonging to the holding, which use is discontinued as a result of abandoning the livestock sector;
 - iv. where applicable, severance allowances for the staff;
 - b) Closure aid combined with investment aid for business conversion into arable crop farming:
 - i. compensation for the loss of use of goods (whether or not owned by the applicant), the use of which is discontinued as a

⁽¹⁴⁾ The impact score of a project is the percentage ratio of the largest value of the total nitrogen deposition of a project to the critical deposition value of the protected European habitats, whether or not currently present in the test zone of the project, as determined by Article 1(2) of the draft Decree. The same article also lays down the sites, parameters and data to be used for the calculation of the impact score of the operation in question. The impact score must be measured via the online application made available for that purpose by the Flemish government.

- result of the business conversion. It can be granted only for loss of use of goods of which use is completely discontinued. It can consist of loss of profit, loss of animals, loss of buildings, loss of materials, loss of nutrient allowances that are cancelled;
- ii. where applicable, the costs of demolition of farm buildings by an approved demolition company;
 - iii. where appropriate, compensation for the agricultural land belonging to the holding, the use of which is discontinued as a result of the conversion, and which cannot be used by the holding following the conversion of the business;
 - iv. a severance allowance for staff, where applicable;
 - v. where appropriate, aid for the investment costs related to the conversion into arable crop farming, covering only the investment costs of immovable property ⁽¹⁵⁾, and on condition that they are investments for which the Flemish Agricultural Investment Fund may grant aid;
 - vi. where appropriate, investment aid for the purchase of additional agricultural land and other immovable property necessary for the operation of the holding following its conversion into arable crop farming.
- c) Advisory services, which can complement the aid in point (a) and (b) above. The Belgian authorities confirm that the component of the aid on advisory services must fulfill the following conditions:
- i. the aid will be accessible to all those eligible in the area concerned based on objectively defined conditions;
 - ii. it will be provided through subsidised services to the final beneficiaries who are livestock farmers, and :
 - 1. the bodies selected to provide advice:
 - a. have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise on;
 - b. are either accredited for providing the service for exchange of knowledge and dissemination of information in the agricultural sector or other professional advisory service that is approved by the land committee.
 - 2. it will be ensured that the advice is impartial and that advisory service providers have no conflict of interest;
 - 3. the advice is not provided in a group.
 - iii. Belgium commits to ensure that action supported under the notified scheme is consistent with the description of AKIS provided in the CAP Strategic Plan;

⁽¹⁵⁾ This concerns the construction or improvement of immovable property.

- iv. Belgium explains that this aid component contributes to climate change mitigation and adaptation, including by reducing greenhouse gas emissions and increasing carbon sequestration, in accordance with Article 6(1)(d) of Regulation (EU) 2021/2015.
 - v. the advice will cover agricultural practices beneficial for the climate and the environment referred to in Article 31 of Regulation (EU) 2021/2115 and the maintenance of agricultural area as referred to in Article 4(2), point (b), of Regulation (EU) 2021/2115.
- (19) Belgium clarifies that the notified scheme removes stables from production, however it does not take cultivated land out of production. The Belgian authorities confirm that the conversion of the livestock farm concerns only the part of the holding which has not received aid for the closure of livestock production capacity. Notably, for each building, the farmer must choose whether he/she intends to discontinue the building (stable) or convert the building (stable) into a building that he/she will operate for arable crop farming. Where the farmer chooses the closure compensation without conversion to arable crop holding, the building must be demolished and the farmer receives a demolition fee covering the demolition costs. In case the farmer applies for investment aid for one building, he/she will no longer be entitled for compensation for the loss of value of that building and for its demolition costs. Therefore, the two types of aid cannot be combined for the same building.
- (20) Where a farmer opts for investment for the conversion of the concerned site (stable) to arable crop farming, the livestock sector must be completely discontinued. Such investment aid must fulfil the following conditions:
- (a) it improves the overall performance and sustainability of the agricultural holding, in particular by improving and converting agricultural production (point (152)(a) of the Guidelines); and contributes to climate change mitigation and adaptation, including by reducing greenhouse gas emissions (point (152)(e) of the Guidelines);
 - (b) the eligible costs concern:
 - the construction, acquisition, including leasing, or improvement of immovable property (the latter costs typically will concern installation costs for electricity and water, foundation costs, construction costs (grinding, roof, floor), costs of ventilation systems, costs for the fixed installation inside in accordance with point (153)(a) of the Guidelines) and
 - the purchase or lease purchase of machinery and equipment up to the market value of the assets, such as equipment fixed to the building (point (153) (b) of the Guidelines);.
 - Where agricultural land or other immovable property necessary for the operation of the holding is purchased, it must not exceed 10 % of the maximum aid intensity allowed for the aid for the new

construction value of the house or building in question (recital (34) and a maximum of EUR 60.000.

- (c) Belgium confirmed that no aid will be granted for the costs listed under point (154) of the Guidelines. Belgium confirms that aid will not be granted in favour of investments in irrigation, neither for investments in the creation or expansion of a reservoir for the purpose of irrigation.

Aid amounts and eligible costs

- (21) For the purpose of calculating the aid, only those parts of the operation are considered which already hold the necessary authorisations. For the purposes of calculating the aid, value added tax is not eligible. The loss in value components are compensated up to 100 %.
- (22) Animal loss component: The calculation of this component applies only to animals which as a result of the renouncement of the livestock sector or the conversion to arable crop farming, have to be sold at an economically disadvantageous time. For this purpose, account may be taken of a maximum number of animals corresponding to the numbers authorised or handled for the holding in question and reduced, where appropriate by the vacancy rate indicated in the list in the Annex attached to the draft Decree. Loss of animals which are kept in a round-up system are not compensated ⁽¹⁶⁾
- (23) Compensation for the loss of use of buildings: It may only be granted for immovable property or parts thereof which meet the following conditions:
- a. the operator has not indicated in the application for the building in question that he/she intends to apply for the investment aid component for the building in question (i.e. it does not concern the same building for which investment for its conversion is applied for),
 - b. they are used for livestock farming and cannot be of otherwise used without major adaptations.
- (24) The compensation for the loss of use of buildings: When farmers make the choice to demolish the building, the loss of use corresponds to the current value of the buildings ⁽¹⁷⁾. This compensation is granted only in respect of those properties for which compensation for livestock abandonment is claimed (closure aid), therefore it cannot be combined with investment aid for the conversion to arable crop farming. It can concern all buildings forming part of the operation. In order to

⁽¹⁶⁾ For animals in a round system, the farmer is free to decide when a new round is to be launched. Depending on the duration of a round, farmers can estimate in advance whether the round can be completed before the activities have to be ceased.

⁽¹⁷⁾ Where the farmer does not opt for the demolition of the building, there is a residual value for the house, which is not compensated.

calculate this component, the difference between the most recent ABEX index ⁽¹⁸⁾ at the time of submitting the application and the ABEX index of 2011 is taken into account. In order to calculate the compensation for the loss of use of buildings, account will be taken, *inter alia*, of the depreciation period as shown in the accounts and depreciation tables as provided in the application and of the residual value ⁽¹⁹⁾ after the depreciation. By way of derogation, for buildings for which the depreciation period is not indicated or depreciation tables are not provided in the application, the depreciation period for a similar type of building that are customary in the sector will be taken into account. For the purposes of the above derogation, a residual value of up to 30 % will be taken into account after the depreciation. By way of derogation from the 30%, the residual value of sheds after depreciation may not exceed 50 %.

- (25) Compensation for the loss of use of materials: This component can be granted in respect of movable property belonging to the parts of the operation which is discontinued. For the calculation of this aid component, the depreciation period and the condition of the material is taken into account. The compensation for loss of use of the materials must not exceed 30 % of the current value.
- (26) The nutrient allowances (Nutritiënemissierechten, NER) cancelled as a result of renouncing from the livestock farming and in the applicable cases, due to the conversion into arable crop farming, will be eligible for this aid component. This compensation will be granted only for those nutrient allowances which, in accordance with the calculation referred to in the second subparagraph of Article 31 (2) of the Manure Decree of 22 December 2006, may be transferred ⁽²⁰⁾. NERs are allowances on the basis of which farm animals can be kept. The aid is granted for the loss of value of the NER (as assets) due to the closure of the livestock production capacity ⁽²¹⁾ on the operation site concerned. The number of animals, expressed in NER, will be the average of the number of animals kept on the basis of the manure bank declaration for the three production years preceding the year in which the aid application is submitted. The market price of NER depends on the animal species (e.g. cattle, pigs, poultry) that one can keep with these rights. The land commissions determine the market price at the time of the application. They obtain information in this regard, *inter alia*, from NERs public sales. Compensation can be granted only for the transferrable NERs

⁽¹⁸⁾ The ABEX index analyses the cost of constructing buildings and private homes. It reflects the national average and the evolution of this average over a given period. From these data, a national average is calculated ([Indices - ABEX](#)).

⁽¹⁹⁾ The residual value is not supported.

⁽²⁰⁾ Nutrient allowances which anyhow be cancelled at the time of the transfer, as a result of the general withdrawal of 25 % or due to variations, due to imbalance or failure to fill in the nutrient allowances, are excluded from the compensation.

⁽²¹⁾ For each animal species, the farmer must have a number of NER. Examples: for a dairy cow, the farmer must have 127 NER, for a meat pig 18,33 NER. This is regulated by the Manure Decree.

that are cancelled (thus, the statutory removal rate provided for in the Manure Decree is not compensated ⁽²²⁾). The aid intensity is therefore less than 100 %.

- (27) Top ups: Where aid is requested for the loss of use of goods components (loss of buildings, material, animals and nutrient allowances that are cancelled), the amount of the aid can be increased by a top-up for beneficiaries who have submitted an application in accordance with the timelines laid down in the draft Decree. The top-up can be:
- (a) 20 % in the case of abandoning the livestock sector not later than one year after the submission of the application;
 - (b) 10 % in the case of abandoning the livestock sector no later than two years after the submission of the application.
- (28) Compensation for the demolition of farm buildings ('demolition fee'): This component concerns the buildings (e.g. silos, pavements, manure cellars) that are part of the operation. The entire building must be demolished, including cellars and foundations. The amount of the compensation is limited to the actual costs of the demolition demonstrated by evidence on the incurred costs. The aid will be capped with the following maximum amounts ⁽²³⁾:
- (a) EUR 40 per m² for the demolition of buildings including the removal of the manure pits and the removal of pavements;
 - (b) EUR 8 per m² for the demolition of yard pavements and trench silos.
- (29) The amounts referred to in recital (28) will be indexed on the basis of the most recent ABEX index at the time of submission of the application, compared to the first ABEX index of 2023.
- (30) The compensation for the demolition of farm building may be cumulated with asbestos removal premiums if these total aid components do not exceed 100 % of the total cost of demolition.
- (31) If solar panels are present on a building that will be subject to demolition and for which a demolition fee is granted, the compensation for the demolition of farm building will be increased by a compensation for the residual value of the solar panels present on the building. Compensation is granted only to solar panels that are still functional. For calculating the aid for the residual value of the solar panels, the residual value is set at 30 % of the investment cost of their installation. The investment cost is calculated on the basis of the power of the solar panels and the power of the converter:

⁽²²⁾ The statutory removal rate for NERs related to pigs is 25%, meaning a maximum aid intensity of 75% after the transferrable NERs.

⁽²³⁾ The amounts are calculated as averages on the given categories, e.g. average demolition cost per m² for the demolition of farm/horses buildings or averages based on quotations included in a database for demolition, removal and pavements.

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Converter power	≤ 40kW	> 40 kW and ≤ 250kW	> 250 kW and ≤ 750kW	> 750 kW
compensation	EUR 339/kWp	EUR 287/kWp	EUR 230/kWp	EUR 184/kWp

- (32) The investment cost calculations are based on figures obtained through the Flemish Energy Agency⁽²⁴⁾. If the building on which the solar panels are located is not demolished, no aid is foreseen. The green certificates on solar panels are not reimbursed.
- (33) Compensation for agricultural land where activities cannot continue after the conversion of the business: The compensation for agricultural land belonging to the holding which use is discontinued (e.g. pasture area) as a result of renouncing livestock farming and for agricultural land belonging to the holding which use is discontinued as a result of the conversion of the holding to arable crop farming will consist of a basic aid and a top up. The basic aid corresponds to the amount of the end of lease payment for the plot in question. The top up is 20% of the amount of the basic aid and it amounts to a maximum of EUR 2.000 per ha. ⁽²⁵⁾
- (34) Manure treatment plant: Manure treatment facilities are considered to be immovable property and are compensated as the loss of use of buildings. If the operation, for which an application for closure aid or closure aid combined with investment aid for the conversion to arable crop farming has been submitted, has contained a manure treatment plant, such plant will be eligible for aid only if the manure processing plant belongs to the orange farm or a farm situated in the specific area and the manure treatment plant has processed livestock manure exclusively from the concerned farm in the three years preceding the year in which the application was submitted. The compensation for loss of use will be calculated, *inter alia*, on the basis of invoices and proof of payment from the applicant. In addition, other factors, such as age and depreciation periods will be taken into account. The data necessary for the calculation will be requested at the time of the submission of the dossier.
- (35) Severance allowance: In order to calculate the severance allowance to the employees affected by the closure, the calculation of the severance allowance by the Social Secretariat will be taken into account. This aid component covers the compulsory social costs resulting from the closure of the economic activity in question. Article 39 of the Law of 3 July 1978 on employment contracts provides that the severance allowance is to be paid if the contract is terminated without urgent reason or without notice being given. The severance allowance does not apply to everyone, for example it does not cover company directors and assisting spouses. The amount of the severance allowance is determined on the basis of

⁽²⁴⁾ The determination of the compensation for the solar panels is based on a study by VEKA (Flemish Energy and Climate Agency). The study showed that the sales value depends on the power of the converter of the panels and that after 9 years the value remains constant.

⁽²⁵⁾ This compensation component cannot be obtained for parcels that are situated in areas referred to under Article 41bis, §1 or 41ter, §1 of the Manure decree of 22 December 2006 for which no derogation from zero fertilization has been granted that has not expired at the time of the application and for which no reimbursement in the Manure decree has been or will be applied for.

two elements: the monthly salary and the duration of the employment relationship.

(36) Investment aid component concerning the conversion of the livestock business to arable crop farming (recital 18(b)): For this aid component, compensation for the loss of use of buildings that are subject to conversion, is excluded. To limit the aid, the applicant may receive investment aid for the cost of the conversion, which is always the lowest amount calculated in accordance with points (a) or (b) or (c) below and which is capped at a maximum of EUR 600 000, with the following maximum aid intensities:

- (a) up to 40 % of the actual investments costs ; from this amount any aid from the Flemish Agricultural Investment Fund (Vlaams Landbouwinvesteringsfonds or VLIF) or other aid for the same eligible investment is deducted. This percentage may be increased to a maximum of 65 % if the applicant is a young farmer;
- (b) up to 40 % of the estimated costs of the investments, as described in recital (38)(a). This percentage may be increased to maximum of 65 % if the applicant is a young farmer;
- (c) up to 40 % of the construction value of a new building/house. This percentage may be increased to a maximum of 65 % if the applicant is a young farmer. The buildings in question have been used for housing animals, for which the applicant has indicated in his/her application to be transformed. To limit the amount of aid and make it proportionate to the current value of the agricultural holding, for calculating the new building value, the following elements will be taken into account: (a) the new construction value of a house with the same production capacity as the existing house; and (b) the current techniques, materials and equipment for housing the animals.

(37) By way of derogation from recital (36)(c), Article 10(12) para 5 of the draft Decree lays down that “stables which are demolished shall also be deemed to be concerned if the applicant has indicated in the application that he/she wishes to charge it in order to calculate the investment fee in accordance with Article 6 (2), second subparagraph, point 12 (d) of the draft Decree”. This derogation has been made because it will possible to invest in a new building not at the very same place where the animal house was within the same plot of land (i.e. due to the availability of utilities or to save space).

(38) The investment aid will be granted for the cost of the conversion, where:

- (a) in order to determine the costs, an estimate is made on the basis of the VLIF standards ⁽²⁶⁾ in question, deducting any VLIF aid that can be obtained;

⁽²⁶⁾ The VLIF standard amounts were established after a thorough analysis of the costs associated with the various agricultural investments. Account is taken of the fact, for example, that a construction is not done with the most expensive materials, and not with the cheapest materials, but with the most

- (b) only the following costs are eligible:
- the costs relating to investments included in the list of eligible investments at the VLIF;
 - costs not linked to the keeping of livestock;
 - costs that are not related to ammonia low-emission animal housing systems.
- (39) The purchase of agricultural land or other immovable property necessary for the operation of the holding after the conversion will be subject to aid if the conditions laid down in the draft Decree are met. Aid for land purchase will be eligible for an amount not exceeding 10 % of the total eligible costs and in any case a maximum of EUR 60.000.
- (40) Advisory services (recital (18)(c): The aid for business advice must not exceed EUR 10 000 per undertaking and must be paid to the consulted accredited advisory service provider. The aid intensity is maximum 100% of the eligible costs. The beneficiaries can only receive business advice once ⁽²⁷⁾. Any aid for advisory services must not exceed EUR 25 000 per undertaking per three-year period.
- (41) The Belgian authorities confirm that the maximum aid intensity and aid amount be calculated by the granting authority when granting the aid. The eligible costs will be supported by the clear, specific and contemporary documentary evidence. When calculating the aid intensity and the eligible costs, will all figures be taken before any deduction of tax or other charge. The value added tax (VAT) is not eligible for aid. Where aid is calculated in unit costs, the Belgian authorities confirm that these are based on a fair, equitable and verifiable calculation method based on one or more of the following: (i) statistical data, other objective information or an expert judgment; (ii) verified historical data of individual beneficiaries or (iii) the application of usual cost accounting practices of individual beneficiaries.

General eligibility conditions

- (42) To be eligible for aid under recital 18(a) and 18(b), all of the following conditions must be fulfilled:
- (a) the production capacity of the operation in question has been continuously used for five years prior to the submission of the application for the cessation aid in accordance with point (426) of the Guidelines;

common and sustainable techniques. Working with VLIF standards ensures that there is no overcompensation.

⁽²⁷⁾ Concerning the business advice, no account is taken of aid for farm guidance which has already been granted to the beneficiaries in the context of the implementation of the planning note for the restructuring programme for the group of holdings contributing more than 50 % to the critical deposition value of a habitat or of the establishment note for the restructuring programme for the group of companies contributing 5 % or more but less than 50 % to the critical deposition value of a habitat.

- (b) the operation in question is authorised, meaning that at the time of the submission of the application for aid, the necessary authorisations have not been revoked or suspended;
 - (c) for the location of the operation in question, the obligation laid down in Article 23 of the Manure Decree of 22 December 2006 has been complied with at least since the production year 2018;
 - (d) the operation in question is within the Flemish Region;
 - (e) the operation in question has not yet been compensated for the implementation of the plan for the restructuring programme for the group of companies contributing more than 50 % to the critical deposition value of a habitat or of the restructuring programme for the group of companies contributing 5 % or more but less than 50 % to the critical deposition value of a habitat.
- (43) In addition to the conditions laid down in recital (42), for aid under recital (18)(a) and (b), all the following additional conditions must be met:
- (a) at the time of the submission of the application, the operation in question has not yet ceased;
 - (b) at the latest, as indicated in the application for a cessation payment, the farming in the livestock sector in question must be completely, voluntarily and permanently discontinued. The aforementioned discontinuation of the livestock sector is notified in accordance with Article 98 of the Flemish Government Decree of 27 November 2015 implementing the Decree of 25 April 2014 on the environmental permit ⁽²⁸⁾;
 - (c) after the abandonment of the livestock site:
 - all nutrient allowances for the farmer on whose holding the operation in question belongs must be cancelled. By way of derogation, if the farmer keeps animals on another farm, only the nutrient allowances used to keep animals on the farm that is subject to the closure aid must be cancelled.
 - the site of the operation in question cannot obtain a permit leading to emissions of NH₃ emissions from stables;
 - the operator cannot restart the same activity in another location as laid down in point (425) of the Guidelines,
 - the commitment that the closure of the production of the livestock capacity concerned is definitive and irreversible must also bind any future purchaser of the land or facility concerned ⁽²⁹⁾

⁽²⁸⁾ The draft Decree states that the cessation of activities must be notified (Article 5 (2)), and the compensation is paid only if it appears that the notification has actually taken place (Article 11 (1), second subparagraph, point 2). Consequently, the activity has been removed from the permit.

⁽²⁹⁾ The Decree of 26 January 2024 on the programmatic approach to nitrogen contains several provisions to ensure this. Article 39 (3) of that decree states *that '[o]n the location where compensation for the*

- the farmland must be maintained in good agricultural and environmental condition in accordance with the GAEC standards established under Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115 and with the relevant implementing rules. The closure of installations falling within the scope of Directive 2010/75/EU of the European Parliament and of the Council⁽³⁰⁾ must be carried out in accordance with Articles 11 and 22 of that Directive.
- (44) In addition to the conditions laid down in recital (43), for aid under recital (18)(b), the following additional conditions must be met:
- (a) after the conversion, the activities related to the conversion must continue for at least five years. If the above activities are carried out for a shorter period, the aid must be recovered pro rata, for the number of years in which the activities were carried out for less than five years;
 - (b) the operation in question has been continuously operated for a period of five years prior to the submission of the application for the aid;
 - (c) at the time of submission of the application for aid, the operator of the operation must not yet receive a retirement pension;
 - (d) at the time of submitting the application, the conversion to arable crop farming has not yet started.

Other conditions

- (45) The Belgian authorities confirm that the aid must fulfil the following conditions:
- (a) Compliance with EU law:
 - according to point (428) of the Guidelines, only undertakings that meet Union standards are eligible for aid. Undertakings that do not meet European Union standards and have to cease production are not eligible for aid (penultimate of Article 4 the draft Decree). Aid granted for the implementation of the scheme must only be used to fulfil the obligations set out in the draft Decree and must not be used to fulfil obligations set out in other regulations;
 - the State aid measure, the conditions attached to it or the activity it finances does not entail a violation of relevant Union law;

cessation of a livestock farming operation was granted (...), no new livestock farming may be authorised after the cessation'. In addition, Articles 56 and 57 of the same decree contain provisions relating to the permit register and the information to be included therein, which ensure that no livestock activity can be developed on the concerned site and that it is known to future purchasers of the land concerned.

⁽³⁰⁾ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

- the aid measure is compatible with the provisions governing the common organisation of the markets in agricultural products ⁽³¹⁾;
- the aid is not subject to the obligation for the beneficiary undertaking to use national products or services;
- the aid is not granted for export-related activities to third countries or to Member States, directly linked to the quantities exported, or is not contingent upon the use of domestic over imported goods, or is the aid granted for establishing and operating a distribution network or to cover any other expenditure linked to export activities.

(b) Cumulation:

- according to point (104) of the Guidelines, aid with identifiable eligible costs may be cumulated with other State aid as long as those aid measures concern other identifiable eligible costs; Belgium confirms that the notified aid will not be cumulated with other State aid;
- according to point (109) of the Guidelines, aid approved under the Guidelines cannot be cumulated with de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding those laid down in the Guidelines;
- Belgium confirms that, with the exception of the investment aid component, there can be no overlap of the same eligible costs with the CAP Strategic Plan. In this regard, Belgium confirms that in case of overlap between aid under the scheme and support under the rural development program or Strategic Plan of Belgium, the maximum aid and aid intensities will be respected, thus if aid in favour of the agricultural sector is cumulated with payments referred to in Articles 145 and 146 of Regulation (EU) 2021/2115 in respect of the same eligible costs, such cumulation must respect an aid intensity or aid amount laid down in the Guidelines; to this aim Article 11 (1) of the draft Decree provides that the beneficiary must transfer the decision on the requested VLIF aid to the VLM so that the maximum aid and aid intensities can be guaranteed at the time of the payment of the aid under the scheme.

(c) Transparency:

- in accordance with point (112) of the Guidelines, the information referred to therein relating to the aid scheme will be published via the European Commission's Transparency Award Module;

⁽³¹⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) 922/72, (EEC) 234/79, (EC) 1037/2001 and (EC) 1234/2007 (OJ L 347, 20.12.2013, p. 671).

- according to point (114) of the Guidelines, the data relating to the aid scheme will be kept for at least ten years and remain available to the general public.

Application for aid

- (46) The Belgian authorities confirm that an application for the aid to the national authorities must be submitted by the beneficiary before any work on the project or activity has started. The application must be submitted to the land commission via the reimbursement desk made available by the VLM. Article 6 of the draft Decree describes in details the information that the aid application must contain, which includes, as applicable for the respective measure, among other requirements, the applicant's identification; information proving that it is not a large enterprise; the type of aid applied for; the start date of the project/activity; the planned end date of the cessation of operations; the planned end date of the conversion to arable crops; the planned end date for the completion of the demolition; the list of all parts of the operation broken down by components (cartographic material); list of buildings for which aid is claimed; parcel numbers; depreciations tables for the buildings and goods; calculation of the impact score; the discontinued parts of the operation and their location; information on the buildings involved in the operation, the details of the advisory service provider, etc.⁽³²⁾ If the information to be communicated in the context of an application is already available from a Flemish administration, as referred to in Article I.3 (2) of the Administrative Decree of 7 December 2018, the applicant may choose not to attach the requested data to his/her application, provided that he/she explicitly authorises that the relevant data is obtained directly from the Flemish administration.

3. ASSESSMENT

3.1. Existence of aid - Application of Article 107(1) TFEU

- (47) According to Article 107(1) of the TFEU, "*[s]ave as otherwise provided in the Treaties, any 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 shall, in so far as it affects trade between Member States, be incompatible with the internal market*".
- (48) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.

⁽³²⁾ For the aid components, the land commissions calculate the amount of the aid. Therefore, for example, the amount of aid needed to carry out the conversion or demolition of buildings and the eligible costs are not requested to be included in the aid application (Article 6 of the draft Decree). This is because the land commissions will calculate the maximum amount of aid on the basis of the requested conversion and the requested demolition.

- (49) The aid is imputable to the State as it is based on the legal acts described in recital (10) and managed by public authorities (recital (13)). The scheme is financed by the Flemish regional budget (recital (12)).
- (50) The scheme confers an advantage on its beneficiaries in the form of direct grants (recital (14)). Advisory services are provided through subsidised services to the final beneficiaries, i.e. to farmers giving up their livestock production (recital (18)(c)). The scheme thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.
- (51) The Commission considers that the scheme is selective since the aid is granted only to certain undertakings within the livestock sector, and other entities in a comparable legal and factual situation within that sector or other sectors (considering that all economic operators should in principle cover their own costs), were not eligible for aid. The scheme therefore gives only certain undertakings (recital (15)) a selective economic advantage, by strengthening their competitive position on the market. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to 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⁽³³⁾.
- (52) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade⁽³⁴⁾. The beneficiaries under the notified scheme operate in the livestock sector or may convert to arable crop farming, where intra-EU trade takes place. These sectors are open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the scheme is liable to distort competition and to affect trade between Member States.
- (53) Therefore, the conditions of Article 107(1) of the TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article. Belgium does not contest that conclusion.
- (54) The notified three aid measures are governed by an act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner (sections 2.3, 2.8 and 2.9). The Commission therefore considers that it is an aid scheme within the meaning of point (33)(13) of the Guidelines.

3.2. Lawfulness of the aid – Application of Article 108(3) TFEU

- (55) The scheme was notified to the Commission on 8 November 2023. The national legal basis specifies that no aid can be granted prior to the approval by the

⁽³³⁾ Judgment of the Court of 17 September 1980 in Case 730/79 Philip Morris Holland BV v Commission of the European Communities, ECLI:EU:C:1980:209.

⁽³⁴⁾ See in particular the judgment of the Court of 13 July 1988 in Case 102/87 French Republic v Commission of the European Communities, ECLI:EU:C:1988:391.

Commission (recital (11)). Therefore, Belgium has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

- (56) The aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

3.4. Application of Article 107(3), point (c), TFEU

- (57) The Commission has assessed the scheme on the basis of Article 107(3), point (c), TFEU.
- (58) Under Article 107(3), point (c), TFEU an aid may be considered compatible with the internal market, if (i) it is found to facilitate the development of certain economic activities or of certain economic areas, where (ii) such aid does not adversely affect trading conditions to an extent contrary to the common interest.

3.5. Application of the Guidelines

- (59) As regards the three measures within the scheme, Part I and Part II Section 1.3.1.1. (Closing of capacity for animal, plant or human health, sanitary, ethical, environmental or climate reasons), Section 1.1.1.1. (Aid for investments in agricultural holdings linked to primary agricultural production) and Section 1.1.10.2. (Aid for advisory services) are applicable.
- (60) The Commission will consider the scheme compatible with the internal market under Article 107(3), point (c), TFEU if it complies with the conditions set out in Part I, Chapter 3, and the respective Sections of Part II of the Guidelines.

3.5.1. First condition: the aid must facilitate the development of an economic activity or certain economic area

3.5.1.1. Facilitation of the aided economic activity

- (61) An aid measure notified on the basis of Article 107(3), point (c), TFEU must aim at facilitating the development of an economic activity or an economic area.
- (62) According to point (43) of the Guidelines, the Member State must demonstrate that the aid aims at facilitating the development of the identified economic activity. The Commission considers that closure of production capacity causing nitrogen deposition will have a positive effect on the environmental quality of the targeted areas, which will allow to keep a high quality, sustainable and environmentally friendly livestock production (recitals (5), (8) and (9)). In addition, farmers closing their livestock capacity could receive investment aid to convert into arable crop farming, accompanied by advisory services (recital (17)). The aided economic activity is therefore animal husbandry and arable crop farming. Therefore, the provisions of point 43 of the Guidelines are complied with.
- (63) According to point (44) of the Guidelines, Member States must also describe whether and, if so, how the aid will contribute to the achievement of the objectives of the CAP and within that policy to the objectives of Regulation (EU) 2021/2115

and describe more specifically the expected benefits of the aid. The Belgian authorities have complied with this obligation (see recital (9)). Therefore, the Commission considers that the provisions of point (44) of the Guidelines are complied with.

3.5.1.2. Incentive effect

- (64) According to point (47) of the Guidelines, aid can only be found compatible with the internal market if it has an incentive effect. An incentive effect is present when the aid changes the behaviour of an undertaking in such a way that it engages in additional activity contributing to the development of the sector which it would not have engaged in without the aid or in which it would only have engaged in a restricted or different manner.
- (65) Given the fact that in the absence of the aid, livestock farmers rather would have little or no interest in closing their production capacity or change their production method to arable crop farming (see recital (5)), the State intervention has an incentive effect.
- (66) Moreover, in line with points (50) and (51) of the Guidelines, aid will be granted only following an application in writing (including the applicant's name, the size of the undertaking, a description of activity, including its location, the start and end dates) which must be made before any work on the project has started (recitals (43)(a), (44)(d) and (46)). The Commission accepts the explanations by the Belgian authorities why the aid amount and eligible costs are not included in the application for aid (footnote 32)).
- (67) The Commission therefore considers that the condition regarding the incentive effect of the scheme is satisfied.

3.5.1.3. Conclusion

- (68) The Commission considers that the condition regarding the facilitation of the development of an economic activity is satisfied.

3.5.1.4. No breach of relevant provisions and general principles of Union law

- (69) According to point (61) of the Guidelines, aid cannot be declared compatible with the internal market if the aid measure itself or the activity it finances entails a violation of relevant Union law.
- (70) The Commission considers that the aid measure is compatible with the provisions governing the common organisation of the market in agricultural products; the aid is not subject to the obligation for the beneficiary undertaking to use national products or services; the aid is not granted for export-related activities to third countries or to Member States, directly linked to the quantities exported, or is not contingent upon the use of domestic over imported goods, or is the aid granted for establishing and operating a distribution network or to cover any other expenditure linked to export activities (recital (45) (a)). Therefore, points (62), (63) and (64) of the Guidelines are complied with.
- (71) The Commission has therefore no indications that the scheme or the aided projects would entail a violation of relevant Union law.

3.5.2. Second condition: aid must not adversely affect trading conditions to an extent contrary to the common interest

3.5.2.1. Need for State intervention

- (72) State aid must be targeted to situations where aid can bring about a material development that the market cannot deliver, for example by remedying a market failure to the aided activity. The Belgian authorities have identified the market failure regarding the closure of production capacity for environmental and climate reasons. The Commission considers that such market failure exist and it is corrected by means of granting the most appropriate form of aid in relation to the counterpart provided by the beneficiary.
- (73) In accordance with point (71) of the Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning aid measures fulfilling the specific conditions laid down in Part II of the Guidelines⁽³⁵⁾ The scheme fulfils the specific requirements laid down in Section 1.3.1.1. (Closing of capacity for animal, plant or human health, sanitary, ethical, environmental or climate reasons), Section 1.1.1.1. (Aid for investments in agricultural holdings linked to primary agricultural production) and Section 1.1.10.2. (Aid for advisory services) of Part II of the Guidelines. Therefore, in line with point (71) of the Guidelines, the Commission considers that there is a need for State intervention.

3.5.2.2. Appropriateness of aid

Appropriateness among alternative policy instruments

- (74) In accordance with point (73) of the Guidelines, aid granted in the agricultural sector which fulfils the specific conditions laid down in the relevant Sections of Part II, is an appropriate policy instrument. The aid scheme complies with the specific provisions laid down in Section 1.3.1.1. (Closing of capacity for animal, plant or human health, sanitary, ethical, environmental or climate reasons), Section 1.1.1.1. (Aid for investments in agricultural holdings linked to primary agricultural production) and Section 1.1.10.2. (Aid for advisory services) of Part II of the Guidelines (recitals (98),(105) and (114)).
- (75) In accordance with point (74) of the Guidelines, where a Member State decides to put in place a rural development-like aid measure financed exclusively from national funds, when at the same time the same intervention is provided for in the relevant the CAP Strategic Plan, the Member State should demonstrate the advantages of such a national aid instrument compared to the CAP Strategic Plan intervention at stake. Belgium confirms that its CAP Strategic Plan (SP) 2023-2027 includes a measure for support for sustainable productive investments however confirmed the differences between the SP measure and the notified conversion aid (footnote 11)). Moreover, to avoid partial overlaps and to ensure respect for the maximum aid intensities in the Guidelines, Belgium will ensure

⁽³⁵⁾ Point (71) of the Guidelines incorrectly refers, instead of Part II of the Guidelines, to Part I of the Guidelines. The Commission will in the future consider that Point (71) of the Guidelines refers to Part II of the Guidelines instead of Part I of the Guidelines.

through the cumulation rules that no overcompensation can occur with regard to potentially overlapping investment measures (recital 45(b)).

Appropriateness among different aid instruments

- (76) In accordance with point (76) of the Guidelines, where a specific form is set out for an aid measure as described in Part II of the Guidelines, such form is considered to be an appropriate aid instrument for the purpose of the Guidelines.
- (77) The closure aid and the conversion aid is provided in the form of direct grants (recital (14)). The Commission considers that other forms of aid would not meet the environmental objectives of the scheme and would rather maintain or expand livestock production capacity (recital (14)). Advisory services are provided through subsidised services to the final beneficiaries, i.e. to farmers giving up their livestock production (recital (18)(c)). This is in accordance with point (77) of the Guidelines.
- (78) The Commission therefore considers that the criterion of appropriateness of aid is fulfilled.

3.5.2.3. Proportionality of the aid

- (79) According to point (83) of the Guidelines, the aid is considered proportionate if the aid amount per beneficiary is limited to the minimum needed for carrying out the aided activity. According to point (84) of the Guidelines, for aid to be proportionate, the amount of aid should not exceed the eligible costs. With a view to limit the amount of the aid, the Commission notes that Belgium compensates the actual costs of demolition which is capped at maximum amounts (recital (28)) and limits the investment aid to the lowest possible among the three potential ways of calculating the aid amounts with a cap of EUR 600.000 (recital (36)). These ensure that the beneficiaries receive the minimum amount of aid needed to carry out the supported activities.
- (80) Point (86) of the Guidelines states that the criterion of proportionality is deemed to be fulfilled if the eligible costs are correctly calculated and the maximum aid intensities or maximum aid amounts set out in Part II of the Guidelines are respected. The three measures under the scheme fulfil the requirements on the maximum aid intensities and maximum amount of aid laid down in Section 1.3.1.1. (Closing of capacity for animal, plant or human health, sanitary, ethical, environmental or climate reasons) (recital (98)), Section 1.1.1.1. (Aid for investments in agricultural holdings linked to primary agricultural production) (recital (105) and Section 1.1.10.2. (Aid for advisory services) of Part II of the Guidelines, respectively (recital (114)). Therefore, the requirements under point (86) of the Guidelines are fulfilled.
- (81) Moreover, the Commission notes that the calculation methodology for the different components of the aid, which is based on objective information or expert judgement (recitals (22), (24), (25), (26) and (28) to (35)). With regard to the aid component for the loss of use of buildings (recital (24)), the nutrient allowances (recital (26)), the demolition fee (recital (28) to (32)), the estimations of investment aid for the conversion measure (recital (38)), the requirements to use simplified cost options under points (94) and (95) of the Guidelines are fulfilled.

- (82) In accordance with point (87) of the Guidelines, the granting authority will calculate the maximum aid intensity and aid amount when granting the aid. Eligible costs will be supported by clear, specific and contemporary documentary evidence. When calculating the aid intensity and the eligible costs, all figures will be taken before any deduction of tax or other charge (recital (41)). In line with point (88) of the Guidelines, value added tax (VAT) is not eligible for aid (recital (41)).

Cumulation

- (83) The rules on cumulation mentioned in recital (45)(b) correspond to those described in points (104), (106) and (109) of the Guidelines. Thus, the requirements laid down in those points are complied with.

3.5.2.4. Transparency

- (84) The transparency requirements of point (112) of the Guidelines are complied with (recital (45)(c)).

3.5.2.5. Avoidance of adverse negative effects on competition and trade

- (85) According to point (116) of the Guidelines, for an aid to be compatible, its negative effects in terms of distortions of competition and impact on trade between Member States must be minimised. According to point (118) of the Guidelines, if the aid is well targeted, proportionate and limited to the net extra costs, its negative impact is softened and the risk that it will adversely distort competition is more limited. Moreover, the Commission establishes maximum aid intensities or aid amounts and the greater the positive effects the aided project is likely to give rise to, the higher the cap on aid intensity. In the present case, the aid provided for by the scheme is well targeted (recitals (62), (73) and (78)) and proportionate (see recital (80)). Moreover, the aid under the scheme is limited to the incurred losses and to the net extra costs for the livestock farmers (recital (81)) and only a part of the targeted farmers active in livestock husbandry is expected to take part in the scheme closing their livestock production capacity or to convert their sites to arable crop farming. Therefore, the Commission considers that the adverse negative effects on competition and trade are kept to the minimum. Moreover, according to point (137) of the Guidelines, in principle, due to its positive effects on the development of the sector, the Commission considers that where an aid fulfils the conditions and does not exceed the relevant maximum aid intensities or maximum aid amounts, laid down in the applicable Sections of Part II, the negative effect on competition and trade is limited to the minimum. The aid provided under the scheme does not exceed the aid intensities related to the closure aid, investment aid and advisory services.

- (86) The Commission therefore considers that the adverse negative effects of the scheme on competition and trade are kept to the minimum.

3.5.3. Specific assessment according to the category of aid - Section 1.3.1.1. - Closing of capacity for animal, plant or human health, sanitary, ethical, environmental or climate reasons

- (87) In line with point (423) of the Guidelines, the Commission will consider aid for closing capacity for animal, plant or human health, sanitary, ethical, environmental or climatic reasons compatible with the internal market under Article 107(3), point (c), TFEU if it complies with the compatibility assessment principles of the Guidelines (Chapter 3, Part I) and with the conditions set out in points (424) to (436) of the Guidelines.
- (88) In line with point (424) of the Guidelines the closing of capacity is done for environmental and climate reasons (recitals (5) to (8)).
- (89) In line with point (425) of the Guidelines:
- (a) a minimum contribution from the beneficiary of the aid, in the form of a definitive and irrevocable decision to scrap or irrevocably close the production capacity concerned is required (recital (43)(b) and (c));
 - (b) the farmer's decision involve the complete closure of livestock production capacity on the concerned site (recital (43)(b) and (c));
 - (c) legally binding commitments must be obtained from the beneficiary that the closure concerned is definitive and irreversible and that the beneficiary will not start the same activity elsewhere (recital (43)(c));
 - (d) the commitment that there can be no livestock production on the same site in the future must also bind any future purchaser of the land (recitals (43)(c) and footnote 29).
- (90) In line with point (426) of the Guidelines only undertakings that have actually been producing, and only production capacities that have actually been in constant use over the past five years before closing of the capacity are eligible for aid (recitals (42)(a), (43)(a) and (44)(b)). Based on the design of the scheme, the Commission has no indication that the aid could be granted for closure that appears inevitable.
- (91) In line with point (428) of the Guidelines, only undertakings that meet Union standards are eligible for aid. Undertakings that do not meet European Union standards and have to cease production are not eligible for aid (penultimate of Article 4 the draft Decree) (recital (45)(a)).
- (92) The scheme does not concern open farmland taken out of production. Belgium clarified that the notified scheme removes stables from production, however it does not take cultivated land out of production. Therefore, the Commission notes that the first two sentences of point (429) of the Guidelines, do not apply.
- (93) In line with point (429) of the Guidelines, the farmland must be maintained in good agricultural and environmental condition in accordance with the GAEC standards established under Title III, Chapter I, Section 2, of Regulation (EU) 2021/2115 and with the relevant implementing rules. The closure of installations falling within the scope of Directive 2010/75/EU of the European Parliament and

of the Council must be carried out in accordance with Articles 11 and 22 of that Directive (recital (43)(c)).

- (94) In line with point (430) of the Guidelines, aid under the scheme is accessible to all eligible undertakings (recital (15) and footnote 14).
- (95) In line with point (431) of the Guidelines the eligible costs for which aid may be granted concern the compensation for the loss of value of the assets, measured as the current selling value of the assets (recitals (24) and (25)).
- (96) In line with points (433) and (436)(a) of the Guidelines, under the measure, compensation for the costs of destruction of the production capacity and compensation to offset the obligatory social costs resulting from the implementation of the closure decision and, in principle, compensation for the loss of value of assets component may go up to 100 % (recitals (21), (28) to (32) and (35)) or can be lower (recitals (25) and (26)).
- (97) In line with points (432) and 436(b) of the Guidelines, in addition to the compensation of loss of value of assets, for the closing of capacity for environmental or climate reasons, an incentive payment for the swifter implementation of the closure, not exceeding in total 120 % of the value of the assets, may be given (recitals (27) and (33)).
- (98) Therefore, the Commission concludes that the closure measure under the notified scheme complies with the specific provisions of Section 1.3.1.1 of Part II of the Guidelines.

3.5.4. Specific assessment according to the category of aid - Section 1.1.1.1. of Part II of the Guidelines – Aid for investments in agricultural holdings linked to primary agricultural production

- (99) In line with point (144) of the Guidelines, the Commission will consider aid for investments in agricultural holdings linked to primary agricultural production compatible with the internal market under Article 107(3), point (c), TFEU if it complies with the compatibility assessment principles of the Guidelines (Chapter 3, Part I) and with the applicable conditions set out in points (143), (145) to (163) of the Guidelines.
- (100) In line with point (143) of the Guidelines, the conversion aid is not granted in contravention of any prohibition or restriction laid down in Regulation (EU) No 1308/2013 (recital (45)(a)).
- (101) In line with point (145) of the Guidelines, the conversion aid supports investments in tangible assets and intangible assets on agricultural holdings linked to primary agricultural production (recital (20)).
- (102) In line with point (152)(a) and (152)(e) of the Guidelines, the conversion aid improves the overall performance and sustainability of the agricultural holding, in particular by improving and converting agricultural production and contributes to climate change mitigation and adaptation, including by reducing greenhouse gas emissions (recital (20)(a)).

- (103) The eligible costs (recital (20)(b)) are in line with point (153)(a) and (b) of the Guidelines. Aid will not be granted in respect of the costs listed in points (154) (157) and (158) of the Guidelines (recital (20)(c)). Moreover, agricultural land purchased is only being eligible to an extent not exceeding 10 % of the total eligible costs of the operation concerned (recital (39)).
- (104) The maximum aid intensity of 40 % respects what is allowed under the point (160)(a) of the Guidelines (recital (36)). The increased aid intensity up to a maximum of 65% of the eligible costs for young farmers (recital (36)) respects the maximum aid intensity allowed under point (160) (b) of the Guidelines.
- (105) Therefore, the Commission concludes that the conversion aid under the notified scheme complies with the specific provisions of Section 1.1.1.1 of Part II of the Guidelines.

3.5.5. Specific assessment according to the category of aid - Section 1.1.10.2. of Part II of the Guidelines – Aid for advisory services

- (106) In line with point (292) of the Guidelines, the Commission will consider aid for the provision of advisory services compatible with the internal market under Article 107(3), point (c), TFEU, if it complies with the compatibility assessment principles of the Guidelines (Chapter 3, Part I) and with the applicable conditions set out in points (279), (280) and (281) and points (293) to (300).
- (107) In line with point (293) of the Guidelines, actions supported under the notified measure will be consistent with the description of AKIS provided in the CAP Strategic Plan (recital (18)(c) iii).
- (108) In line with point (294)(b) of the Guidelines, the advice will cover agricultural practices beneficial for the climate and environment and the maintenance of agricultural area (recital (18)(c) v).
- (109) In line with point (295) of the Guidelines, the aid is granted in the form of subsidised services (recital (18)(c) ii).
- (110) In line with point (296) of the Guidelines, the bodies selected to provide the advisory service must have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise on (recital (18)(c) ii 1 (a) and (b)).
- (111) In line with point (297) of the Guidelines, the Commission notes that Belgium will ensure that the advice is impartial and that advisory service providers have no conflict of interest (recital (18)(c) ii 2)).
- (112) In line with point (299) of the Guidelines, the aid intensity must not exceed 100 % of the eligible costs (recital (40)).
- (113) In line with point (300) of the Guidelines, the aid must not exceed, within any three-year period EUR 25 000 per undertaking active in the primary agricultural production (recital (40)).

- (114) Therefore, the Commission concludes that aid for advisory services under the notified scheme complies with the specific provisions of Section 1.1.10.2 of Part II of the Guidelines.

3.5.6. Other general conditions

- (115) The notified aid scheme has a duration until 31 December 2027, which is in line with point (638) of the Guidelines.
- (116) Finally, the Commission notes that no aid will be granted to undertakings in difficulty within the meaning of point (33)(63) of the Guidelines or to undertakings which are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market (recital (16)). Therefore, the conditions of points (23) and (25) of the Guidelines are fulfilled.

3.5.7. Balancing test - weighing up the positive and the negative effects of the scheme

- (117) According to point (134) of the Guidelines, the Commission assesses whether the positive effects of an aid measure outweigh the identified negative effects on competition and trading conditions. The Commission may conclude on the compatibility of the aid measure with the internal market only where the positive effects outweigh the negative ones.
- (118) The negative distortive effects on competition will tend to outweigh the positive effects of the measure if aid measures address a well-identified market failure in an appropriate and proportionate way (point (135) of the Guidelines).
- (119) The scheme addresses an identified market failure (recitals (5)(72) and (73)) in an appropriate (recital (78)) and proportionate way (recital (80)).
- (120) The Commission takes into account the impact of the aid on the achievement of the general and specific objectives of the CAP set out in Articles 5 and 6 of Regulation (EU) 2021/2115 (point (136) of the Guidelines). The Commission agrees with Belgium that the scheme contributes to the objectives of the CAP (recitals (8) and (9)) and it considers that the scheme will not negatively affect other CAP objectives.
- (121) The Commission considers that where an aid fulfils the conditions and does not exceed the relevant maximum aid intensities or maximum aid amounts laid down in the applicable Sections of Part II, the negative effect on competition and trade is limited to the minimum (point (137) of the Guidelines). The scheme fulfils the specific requirements laid down in Section 1.3.1.1. (Closing of capacity for animal, plant or human health, sanitary, ethical, environmental or climate reasons), Section 1.1.1.1. (Aid for investments in agricultural holdings linked to primary agricultural production) and Section 1.1.10.2. (Aid for advisory services) of Part II of the Guidelines and does not exceed the relevant maximum aid intensities and aid amounts (recital (80)).
- (122) The Commission considers that the scheme can be expected to have a positive impact on the environment and on the climate (recitals (5) to (7)).

- (123) In line with points (139) and (140) of the Guidelines, the Commission therefore that the positive effects of the aid have been established.
- (124) Therefore, the Commission concludes that the positive impact of the scheme outweighs its negative effects in terms of distortions of competition and impact on trade between Member States.

3.6. Conclusion on the compatibility of the scheme

- (125) In light of the above, the Commission concludes that the scheme facilitates the development of an economic activity and does not adversely affect trading conditions to an extent contrary to the common interest. Therefore, the Commission considers that the aid is compatible with the internal market based on Article 107(3), point (c), TFEU as interpreted by the relevant provisions of the Guidelines.

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), point (c), TFEU.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <https://competition-cases.ec.europa.eu/search?caseInstrument=SA>.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission
Margrethe VESTAGER
Executive Vice-President

