

**NOTE FROM THE BELGIAN AUTHORITIES
TO THE EUROPEAN COMMISSION
DG COMP - Unit H6**

Subject: Proposals from the Belgian authorities in the context of the forthcoming revision of the guidelines for State aid in agriculture, forestry and in rural areas and for the agricultural block exemption regulation

In this context, this note makes proposals:

- on the guidelines for state aid in agriculture, forestry and in rural areas (I)
- the agricultural block exemption regulation (II).

I. Guidelines for state aid in agriculture, forestry and in rural areas

1. Aids to compensate for the damage to agricultural production or the means of agricultural production and to prevent damage

Can this aid be used in the case of soil pollution by industrial activity? (e.g. cement factories, Teflon perfluoroids).

Provision could be made for compensation for producers who can no longer market their agricultural products because of pollution for which they are not responsible (e.g. by means of reimbursable aid if they are subsequently compensated by the industry that polluted).

II. Agricultural block exemption regulation

1. General comment

Belgian authorities propose to add a new provision supporting closure and buyout, similar to the provision in 1.2.2. of the guidelines concerning closing production capacity.

2. Notification requirement

The Belgian authorities note that the period of 10 working days before the date of entry into force of an aid scheme exempted from the notification requirement has been removed.

The Belgian authorities believe that this procedure should be maintained.

3. New transparency threshold

Does the publication threshold set at EUR 10 000 concern aid granted under a measure co-financed by the EAFRD? If the answer is yes, then this publication threshold is too low.

Belgian authorities do not understand the Commission's logic in reducing the publication threshold to EUR 10 000. The Belgian authorities are questioning whether the threshold of

EUR 10 000 introduced by the temporary framework set up during the health crisis should be made permanent.

4. Aid for investments in agricultural holdings linked to primary agricultural production

This comment concerns article 13, 11 f). This is not sufficiently in line with Article 74 of the Strategic Planning Regulation.

The Belgian authorities have an issue with the statement under iv): *The actual reduction in water consumption shall be at least 50%*.

This is not in agreement with Regulation 2021/2115:

1) Actual reduction in Regulation 2021/2115 is only applicable if the water status has been identified as less than good in the relevant river basin management plan for reasons related to water quantity.

2) In Regulation 1305/2013 effective water reduction is described as a percentage of the potential water reduction. In Regulation 2021/2115 this is not the case but in the template for strategic plans for SFC member states are asked to define actual reduction as a percentage of potential reduction

In practice the actual water consumption always depends on several factors: the amount of rain (which can still vary locally), water scarcity/drought, the type of soil, type of crop, etc.. The spirit of the regulations must, of course, be "saving" (in accordance with the river basin management plans, etc.), and one could, for example, by means of monitoring in the long term, better substantiate how much effective saving (between ranges) is possible, but one cannot force in black and white that this 50% reduction must be effective in practice: this is not about an experiment or lab test but about entrepreneurs in practice. 50% potential water saving is something very different from 50% actual reduction in water consumption.

In that sense we believe article 13 ABER is too strict/restrictive for water reuse in agriculture, and it should be brought more in line with article 74.

So please consider to limit actual water reduction to 50% only if the water status has been identified as less than good in the relevant river basin management plan for reasons related to water quantity and to define effective/actual reduction as 50% of **potential** water reduction.

The new ABER and guidelines do not mention anything about net extension of irrigation area, as is the case in paragraph 6 of article 74, Regulation 2021/2115 (and Regulation 1305/2013).

How should this be interpreted? If it must be read against the 50% effective reduction in water flow meaning that no state aid is possible in the case of extension of irrigation we strongly disagree.

5. Aid for the participation of producers of agricultural products in quality schemes

Paragraph 1, in point (b) the reference to the paragraphs should be adapted.

It should read: the conditions laid down in paragraphs 2, 4, 6, 7 and 8 of this Article

6. Aid for farm replacement services

We believe that there is an anomaly between what is in the draft ABER vs what is in the Dutch translation.

1. Steun voor bedrijfsvervangingsdiensten in de landbouw is verenigbaar met de interne markt in de zin van artikel 107, lid 3, punt c), van het Verdrag en vrijgesteld van de aanmeldingsverplichting van artikel 108, lid 3, van het Verdrag als hij voldoet aan de voorwaarden die zijn vastgesteld in de leden 2 tot en met 5 van dit artikel en in hoofdstuk I.

2. De steun dekt de werkelijke kosten van de vervanging van een landbouwer, een natuurlijke persoon die lid van het landbouwhuishouden is, of een werknemer in de landbouw, tijdens hun afwezigheid van het werk als gevolg van ziekte, waaronder ziekte van hun kind, vakantie, moederschaps- en ouderschapsverlof, of bij overlijden. (we believe the reference to ‘mandatory military service’ is missing)

*3. De totale duur van de vervanging blijft beperkt tot drie maanden per jaar per begunstigde, met uitzondering van de vervanging voor moederschaps- en ouderschapsverlof en van de vervanging tijdens de **verplichte militaire dienst**. Voor moederschaps- en ouderschapsverlof blijft de duur van de vervanging telkens beperkt tot zes maanden. Voor de **verplichte militaire dienst** blijft de duur van de vervanging beperkt tot de duur van de dienst.*

4. De steun wordt verleend in de vorm van een gesubsidieerde dienst. De bedrijfsvervangingsdiensten in de landbouw mogen worden verstrekt door producentengroeperingen en -organisaties, ongeacht hun omvang. In dat geval mag lidmaatschap van die groeperingen of organisaties geen voorwaarde zijn om toegang tot die diensten te krijgen.

5. De steunintensiteit bedraagt ten hoogste 100 % van de werkelijk gemaakte kosten.

7. Aid for the costs of the prevention, control and eradication of animal diseases and plant pests and aid to make good the damage caused by animal diseases or plant pests

From the wording of paragraph 3, it seems that only animal diseases that satisfy the description in paragraph 3 are eligible. It is unclear whether paragraph 4 is an exception to this and that other diseases are eligible in addition to those that meet the requirements of paragraph 3? How do the two paragraphs relate?

Belgian authorities also have difficulty to understand the meaning of this paragraph. If a beneficiary has taken out an insurance policy, as a result of which it is (partly) reimbursed by the insurance, which costs are still eligible under Article 25? Or should this be read together with Article 15 and do the costs not reimbursed by the insurance still qualify?

8. Aid to the livestock sector and aid for fallen stock

• **Article 26, 5, a**

The wording in article 26, 5 (a) is a considerable narrowing of the current aid measure in art. 27 ABER and cannot be accepted.

The Belgian authorities propose the following: paragraph 5, (a) 70% of the costs referred to in paragraph 2(b).

This wording leaves the scheme of art. 26 intact and restores the meaning of this provision as in the current ABER: the "tests performed to determine the genetic quality or yield..." include, besides genetic tests, a whole range of performance tests which still determine the frame of reference for interpreting tests on genetic material (= genetic tests) and which cannot be understood as "genetic tests".

- **Article 26, 5, c**

The wording in Art. 26, 5, (c) is difficult to read.

The Belgian authorities propose the following wording: (c) 100% of the costs referred to in paragraph 2, points (a), (c), (e), (f) and (g).

This wording leaves the scheme of Article 26 intact and restores the meaning of Article 27 ABER

- **Annex II – Part II**

The list mentions 'support for the livestock sector' (Article 26, paragraph 1, point a) or b)': the Dutch translation is not correct.

It is better to use the word 'fokkerijsector' in Dutch opposed to 'steun voor de veeteeltsector'.

This is the case because the provisions listed in Article 26(1)(a) and (b) of the draft relate to the Breeding Regulation 2016/1012.

9. Aid to make good the damage caused by protected animals

Paragraph 5 states that damage 'may include ...'

The use of the word 'may' implies that the damage may go beyond what is stated in the article?

For example, it mentions killed animals and veterinary costs for the treatment of injured animals. What is missing is consequential damage such as shedding, which occurs in sheep that have experienced severe stress during a wolf attack. Is it possible to be compensated for this damage?

Paragraph 7 indicates that beneficiaries must have made a minimum effort to avoid damage but this seems to be described as conditional.

It asks for preventive measures such as the installation of safety fences 'where possible'... and the measures must be proportionate to the risk of damage so only in risk areas seems sufficient and the paragraph concludes with 'unless such measures are not reasonably possible'.

The use of guard dogs is not reasonably possible in most locations. This means it will be necessary to fence the meadows wolf-proof in a wolf habitat in Flanders in order to receive compensation.