



EUROPEAN COMMISSION

Brussels, 11.6.2020
C(2020) 4031 final

PUBLIC VERSION

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**Subject: State Aid SA.57372 (2020/N) – Sweden
Compensation scheme for undertakings faced with turnover losses
due to COVID-19**

Excellency,

1. PROCEDURE

- (1) By letter of 2 June 2020, registered by the Commission on the same day, and additional information submitted on 3 and 4 June 2020, Sweden has notified the above mentioned scheme (“the measure”), in compliance with Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU”).
- (2) Sweden confirms that the notification does not contain confidential information.
- (3) Sweden exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958¹ and to have this Decision adopted and notified in English.

2. DETAILED DESCRIPTION OF THE MEASURE

- (4) The first case of COVID-19 in Sweden was reported on 31 January 2020. The Swedish government classified the novel disease as a notifiable infectious disease in under Communicable Diseases Act, as being both dangerous to public health and dangerous to society, and initiated a testing campaign after the confirmation of the first local cases. In the course of this COVID-19 outbreak, the Swedish

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

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authorities have adopted, since the first half of March 2020², several recommendations and prohibitions addressed to individuals and undertakings, to limit the spread of the virus.

- (5) On 12 March 2020, the government introduced a ban on public gatherings and public events with more than 500 participants, which it reduced to a maximum of 50 participants on 29 March.
- (6) The government imposed travelling restrictions on 14 March 2020, and prolonged them in April and May 2020.
- (7) On 18 March 2020, the Public Health Agency of Sweden recommended the closure of upper secondary schools, universities and a switch to remote learning. For preschools or schools closed with reference to the Communicable Diseases Act, parents could stay at home with temporary parental leave compensation.
- (8) The Public Health Agency issued regulations on 24 March 2020, based on the Communicable Diseases Act, describing actions restaurants, bars and cafés in Sweden had to take in order to decrease the risk of transmission of COVID-19.
- (9) On 1 April 2020, the Public Health Agency issued a regulation and recommendations on collective responsibility to hinder the spread of COVID-19. They included a wide range of sanitary recommendations to individuals and companies and a requirement to take appropriate measures.
- (10) At a press conference on 9 April 2020, the Public Health Agency announced that there would be controls so as to close operations that did not comply with regulations and recommendations from the authorities.
- (11) Those developments, combined with neighbouring countries closing borders³ and adopting strict containment measures, have had a significant impact on the Swedish economy and Swedish companies, which are very closely integrated into their regional and international markets. According to the National Institute of Economic Research (Konjunkturinstitutet), Sweden's GDP is expected to decline by 7% this year and unemployment to rise to 10.2%, (29 April 2020). The latest survey of the Confederation of Swedish Enterprises (Svenskt Näringsliv), published on 22 April, confirms the negative impact on businesses of the spread of COVID-19: 63% of companies have had decreasing sales or order bookings (22% by more than 50%) while 53% experienced financing or liquidity issues due to the COVID-19 crisis. All sectors were concerned, while the hotel and restaurant industry (93%), passenger traffic (80%) and retail sector (61%) were worst affected.
- (12) On the whole, reduced demand, reduced travelling and disruptions in transport and supply chains have seriously affected companies in Sweden. There has been

² See e.g; <https://www.government.se/articles/2020/03/ordinance-on-a-prohibition-against-holding-public-gatherings-and-events/>;
<https://www.folkhalsomyndigheten.se/publiceratmaterial/publikationsarkiv/h/hslf-fs-20209/>;
<https://www.folkhalsomyndigheten.se/smittskydd-beredskap/utbrott/aktuella-utbrott/covid-19/skyddadig-ochandra/>

³ Denmark, Norway and Finland closed their borders from 14, 16 and 19 March 2020 respectively for persons travelling without a valid reason.

an unprecedented volume of layoffs and short-term layoffs during March and April 2020 and loss of income for many companies.

- (13) In addition to certain support measures already adopted, such as short-term work scheme or deferral of taxes and contributions, the Swedish authorities decided to introduce the notified measure to provide a significant relief to compensate undertakings that suffered a sudden loss of turnover while still having their fixed costs to bear, as a direct result of the COVID-19 outbreak and the restriction measures adopted by public authorities to prevent its spread.

2.1 Legal basis

- (14) The legal basis for the measure is composed of a Government Amendment Budget Bill, to be presented in early June 2020, including a draft act⁴ supplemented by a Governmental Ordinance detailing the compensation measure. Both the Act and the Ordinance would enter into force on 22 June 2020.

2.2 Objective of the measure

- (15) The objective of the measure is to compensate companies for damage caused by the COVID-19 outbreak and the related containment and administrative recommendation measures adopted by public authorities to prevent it. In that situation, in the view of the Swedish authorities, the damage consists in the difference, as a direct result of the COVID-19 outbreak and governmental measures, between the profit/loss incurred by each beneficiary, on the one hand, and the profit/loss incurred in a reference period before those events, on the other (net losses). The current losses suffered by the companies can create a temporary lack of liquidity that makes it difficult to pay their fixed costs. Therefore, the damage compensation will be granted in the form of a partial coverage of the fixed costs that companies have to bear during a compensation period fixed by the measure.

2.3 Budget

- (16) The estimated budget is, at this stage, of SEK 39 billion (around EUR 3,7 billion⁵).

2.4 Geographical scope

- (17) The scheme applies to companies registered in Sweden, as specified in recitals (20) to (23).

2.5 Form of aid and financing mechanism

- (18) The aid will take the form of grants. It will be financed through the national budget.

⁴ Draft law and ordinance on financial support to undertakings whose net turnover is reduced to a great extent as a result of the spread of the disease COVID-19 (compensation aid).

⁵ Exchange rate SEK 1= EUR 0.0957, on 03.06.2020.

2.6 Granting authority

- (19) The authority in charge of the administration of the scheme is the Swedish Tax Agency.

2.7 Beneficiaries

- (20) The beneficiaries of the notified aid scheme are legal entities, whether natural persons or corporate entities, conducting an economic activity irrespective of the sector of the economy, registered with the Swedish Tax Agency. The Swedish authorities estimate approximately 180 000 companies will benefit from the scheme.
- (21) The following entities are excluded from the scope of the scheme: public authorities (State, regions, municipalities) and associations of local public authorities; corporate entities directly or indirectly controlled by those public authorities, if their activities are not economic in nature; corporations with residence⁶ in a State on the Union or OECD lists of non cooperative jurisdictions for tax purposes; corporations that are not resident in Sweden for tax purposes, unless they have a permanent establishment in Sweden; corporations that, during the period of March 2020 until June 2021 have distributed or decided to distribute a dividend or to purchase the company's own shares; and newly established companies which did not have any turnover in March and April 2019.
- (22) The legal basis excludes from the scheme any undertaking that is considered as insolvent, is prohibited from conducting business, has tax or public fee debts under a national recovery requirement, or has benefited from earlier unlawful aid declared incompatible by a Commission Decision, until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.
- (23) Undertakings in difficulties within the meaning of Article 2(18) of Commission Regulation (EU) No 651/2014⁷ before the outbreak of the pandemic (on 29 February 2020) are not eligible for aid.

2.8 Duration

- (24) The notified measure enters into force on 22 June 2020. It provides compensation to the beneficiaries for the period of March and April 2020, provided they are eligible under the scheme (recitals (29) and (30)).
- (25) Beneficiaries can submit their application for aid in the period between 22 June 2020 and 31 August 2020. Aid under the scheme may not be granted beyond 31 December 2020.

⁶ Or where a member in the same group of associated corporations has residence.

⁷ Or, if relevant, Article 2(14) of Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193, 1.7.2014, p. 1, and Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.

- (26) The Swedish authorities confirm that the aid scheme will not enter into force (nor any aid granted) before it is approved by the Commission.

2.9 Eligibility, aid intensity and modalities for compensation

- (27) As recalled in recital (15), the objective of the measure is to compensate companies for damage resulting directly from the COVID-19 outbreak and the related governmental measures that have led to large turnover decline for many undertakings.
- (28) The Swedish authorities consider that the actual damage is the difference between profit/loss in March and April 2020 (covering the time period during which the COVID-19 outbreak was present and governmental measures were in place), and the profit/loss in a corresponding time period before the outbreak (March and April 2019). Sweden intends to compensate those companies that had a significant turnover decline only for part of the fixed costs that they could not avoid, and the scheme is not intended to address lost profits. The Member State has therefore designed a scheme along the following lines:
- (29) To be eligible for the scheme, undertakings must solemnly declare and show in their application that the decline in turnover they encountered in March and April 2020 was directly caused by the outbreak of COVID-19 and subsequent administrative measures that prevented them from carrying out their activities in a normal way. The aid application must identify the relevant measures taken by public authorities (for example, bans of mass gathering in the cultural, sporting or fairs sectors, recommendations to undertakings to adopt new organisational measures in the sector(s) relevant to the declarant to ensure social distancing, protection of workers) or the relevant recommendations to the public to limit gatherings, to adopt social distancing measures directly affecting demand (for example in transport, tourism, hospitality or retail sectors). The aid application must also include relevant justifications in particular as regards the direct impact of the measures and recommendations of the public authorities on the decline in turnover, as well as, for all companies requiring an aid amount above SEK 100 000 (around EUR 9 500), an auditor's statement certifying that those conditions are met.⁸
- (30) Companies are eligible for damage compensation only if, resulting from the COVID-19 outbreak and the measures taken by public authorities, they suffer a decline in total net turnover⁹ during the months of March and April 2020 of at least 30% compared to the total net turnover for the months of March and April 2019. They must also have had at least a minimum turnover of SEK 250 000 (around EUR 23 900) during the last financial year, which ended before January 2020.
- (31) The eligible costs that will be covered by the scheme are beneficiaries' fixed costs, including rent, interest expenses, depreciation on fixed assets, necessary maintenance, consumption of electricity¹⁰, water, sewage, heating, cleaning and

⁸ Below that ceiling, the Swedish Tax Agency can request an auditor's statement, if deemed necessary. The company's costs for auditor's assistance with preparing the mandatory statements for the application can be covered under the scheme, up to SEK 10 000 (EUR 950) per undertaking.

⁹ The net turnover is defined as the turnover less any rebates, VAT and any other tax directly linked to it.

¹⁰ Except for electricity used for industrial manufacturing purposes.

surveillance services, animal feed, insurance, property tax, public permits and inspections fees and franchise or licence fees during the period of March and April 2020.

- (32) Consequently, rather than establishing a precise calculation of the net losses suffered by each company as a result of the COVID-19 outbreak and governmental measures, the measure provides for a method to determine the amount to be compensated, based on turnover decline and fixed costs, in line with the following formula:
- (33) The share of fixed costs to be covered is calculated as the decline of the total net turnover, expressed in percentage, for March and April 2020 compared to March and April 2019, multiplied by 0.75. The minimum compensation share will be 22.5% (in case the turnover decline is of 30%), and the maximum will be 75% (in case of a turnover decline of 100%). Compensation can therefore cover up to maximum 75% of the eligible costs.
- (34) In the view of the Swedish authorities, as a result of that approach, the aid provided to undertakings in most cases is less than their actual economic loss. With the formula in recital (33), compensation does not cover lost profits. Moreover, it does not cover all the fixed costs. Even if an undertaking lost all its revenue, compensation is limited to 75% of fixed costs. In addition, the maximum aid amount per undertaking cannot exceed SEK 150 million (around EUR 14 million). If the undertaking belongs to a group, the cap of SEK 150 million applies to the group as a whole.
- (35) In addition, to avoid overcompensation arising due to the application of the formula, there is a specific safeguard provision that will apply to companies considered as loss-making. The safeguard will apply if either:
- the undertaking reported negative EBIT (earnings before interest and taxes) in its most recently concluded financial year, or
 - the amount of aid, calculated in accordance with the general formula described in recital (33), exceeds the nominal decline in net turnover for March and April 2020, compared to March and April 2019.

For those companies, the amount of aid cannot exceed the nominal decline in gross profit for March and April 2020, compared to March and April 2019¹¹.

- (36) The aid application must contain all the documentation related to the total operating net turnover for March and April 2020 and 2019, to the undertaking's fixed costs for March and April 2020, to the link of turnover decline with COVID-19, the situation with regards its EBIT 2019 and associated information¹², and the auditor's statement.
- (37) The Swedish Tax Agency is in charge of assessing and controlling the aid application and supporting documentation. It assesses the credibility of claims, based on historical business information, evaluates fixed expenses and revenues

¹¹ Gross profit is defined as net turnover minus variable costs (such as the purchase of goods and raw material, taking into account any changes to the inventory of the undertaking at the end of the period).

¹² This covers the elements necessary to calculate their gross profit in March and April 2020 and March and April 2019.

in historical figures against overall activity, and analyses the auditors statements (including on the existence of a causal link between the loss of turnover and the COVID-19 outbreak and governmental measures).

- (38) The Swedish Tax Agency is also in charge of the ex-post control, including on the issue of whether there was a direct causal link between the loss of turnover, the COVID-19 outbreak and governmental measures. Beneficiaries are liable to repay aid if it emerges during ex-post control that aid was granted incorrectly in whole or in part. In such cases, the Swedish Tax Agency will recover the wrongly credited aid, including interest on the amount recovered.
- (39) The Swedish authorities confirm that:
- any payment exceeding the damage suffered as a direct consequence of the COVID-19 outbreak and governmental measures will be recovered;
 - payment made to beneficiaries shall be net of any amount recovered by insurance, litigation, arbitration or other source for the same damage. If the aid is paid out before the insurance, the authorities will recover the insurance amount from the beneficiary;
 - the benefit of the aid is excluded for any applicant responsible for the damage suffered, or that did not conduct its activities with due diligence or in compliance with applicable legislation, or that did not take appropriate measures to mitigate its damages.

2.10 Cumulation

- (40) The Swedish authorities confirm that aid under the scheme cannot be cumulated with other aid for the same eligible costs.

2.11 Monitoring and Reporting

- (41) The Swedish authorities committed to provide a report no later than one year after the date of the Commission decision, specifying the amount of compensation granted. They also committed to maintain, for a period of at least ten years from the date on which aid under the scheme was granted, detailed records containing the information and supporting documents necessary to establish that all the conditions for compatibility with the internal market have been met and provide them, upon written request, to the Commission within a period of 20 working days or such longer period as may be determined in the request.

3. ASSESSMENT OF THE AID MEASURE

3.1 Lawfulness of the aid measure

- (42) The Swedish authorities have fulfilled their obligation according to Article 108(3) TFEU by notifying the aid measure before putting it into effect. The Commission takes note of the fact that the scheme will enter into force only after approval by the Commission.

3.2 Existence of aid within the meaning of Article 107(1) TFEU

- (43) Article 107(1) TFEU defines State aid as ‘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’.

- (44) The qualification of a measure as aid within the meaning of that provision therefore requires that the following cumulative conditions 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.
- (45) As the measure is based on the legislative acts mentioned in recital (14), it is taken by the State (recital (19)). The compensation envisaged by Sweden will be paid from the State budget and is therefore provided through State resources within the meaning of Article 107(1) TFEU (recitals (16) and (18)).
- (46) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (18)). The measure thus relieves those beneficiaries of costs that they would have to bear under normal market conditions. The advantage corresponds to the amount of compensation paid under the scheme.
- (47) Since the compensation will not be granted to all operators in a comparable legal and factual situation but only to certain undertakings as described in recitals (20) to (23), the measure is selective.
- (48) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. As the scheme covers sectors and undertakings involved in trade between Member States, there is a risk that the aid could distort or threaten to distort competition and affect such trade.
- (49) The proposed measure therefore constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility assessment

- (50) The Commission has examined the notified scheme pursuant to Article 107(2)(b) TFEU.

The notion of exceptional occurrences with the meaning of Article 107(2)(b) TFEU

- (51) Article 107(2)(b) TFEU provides that aid to make good damage caused by natural disasters or exceptional occurrences shall be compatible with the internal market. Neither the TFEU nor other Union legislation contains a precise definition of the notion of exceptional occurrence. As they constitute exceptions to the general prohibition of State aid within the internal market laid down in Article 107(1) TFEU, the Commission, in line with the consolidated case-law¹³ has consistently held that the notions of ‘natural disaster’ and ‘exceptional occurrence’ referred to in Article 107(2)(b) TFEU must be interpreted restrictively.

¹³ Judgment of the Court of Justice of 11 November 2004, Spain v Commission, Case C-73/03, EU:C:2004:711, paragraph 37 and judgment of the Court of Justice of 23 February 2006, Atzeni and others, in Joined Cases C-346/03 and C-529/03, EU:C:2006:130 paragraph 79.

- (52) The characterization of an event as being an exceptional occurrence is made by the Commission on a case-by-case basis, having regard to its previous practice in the field¹⁴. In that regard, the following indicators relating to the event concerned must be cumulatively met: (i) unforeseeable or difficult to foresee¹⁵; (ii) significant scale/economic impact¹⁶, and (iii) extraordinary¹⁷.

COVID – 19 outbreak as an exceptional occurrence

- (53) Following the first reports of cases of acute respiratory syndrome (COVID-19) in the Chinese Wuhan municipality at the end of December 2019, the Chinese authorities identified a novel coronavirus (SARS-CoV-2) as the main causative agent, which had not been previously identified in humans. The outbreak has rapidly evolved, affecting not only other parts of China but has also spread to the majority of countries worldwide, including all Member States. Outbreaks of novel virus infections among people are always of public health concern and can have a significant economic impact. Specific sectors and areas are particularly affected by the outbreak, be it because of national outbreak control measures, travel restrictions or supply chain disruptions.
- (54) The declaration of the World Health Organization of a pandemic¹⁸ associated with the public health risk deriving from the absence of therapeutics or vaccines for the COVID-19, determine the exceptional nature of the circumstances. The rapidity of the spread can cause enormous consequences both in terms of fatal outcomes in high-risk groups and in terms of economic and societal disruption¹⁹. The necessity to adopt and encourage the respect of measures aimed at interrupting transmission chains stems from this acknowledgement. Such

¹⁴ Exceptional occurrences which have been accepted in the past by the Commission include war, internal disturbances and strikes, and, with certain reservations and depending on their extent, major industrial accidents which result in widespread economic loss, see Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020, paragraph 330 (OJ C 204, 1.07.2014, p. 53).

¹⁵ Commission Decision of 1 August 2008, case SA.32163, Remediation of damage to airlines and airports caused by seismic activity in Iceland and the volcanic ash in April 2010, Slovenia, paragraph 31.

¹⁶ Elements taken into account by the Commission to consider that the occurrence reached a significant scale: negative consequences cannot be contained (Commission Decision of 4 October 2000 on case NN 62/2000, Régime temporaire d'aides aux entreprises victimes des intempéries et de la marée noire –France), or because of the number of dead or injured people (Commission Decision of 11 April 2012 on case SA.33487, Agricultural and fisheries aid to compensate for damage due to exceptional occurrence (red mud "Aluminium accident"), Hungary, paragraph 35; Commission Decision of 2 May 2002 on case N241/2002, Régime en faveur des entreprises victimes de la catastrophe industrielle de Toulouse, France, paragraph 19), the immense ecological and economic damage (Commission Decision of 11 April 2012 on case SA.33487, paragraph 36), the amount of material damage despite the local character of the industrial accident (Commission Decision of 2 May 2002 on case N 241/2002, paragraph 19).

¹⁷ In its Decision of 19 May 2004 in case C-59/2001 (OJ L 62, 2007, p. 14), the Commission considered that the (alleged) fall in sales of poultry meat in a Member State not directly affected by the dioxin contamination, did not constitute in itself an exceptional occurrence. It was yet an unforeseeable event, but formed part of the normal commercial risks to which an undertaking is exposed.

¹⁸ WHO Director-General's opening remarks at the media briefing on COVID-19 on 11 March 2020, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-mediabriefingon-covid-19---11-march-2020>

¹⁹ ECDC's Rapid Risk Assessment, Outbreak of novel Coronavirus disease 2019 (COVID-19): increase transmission globally – fifth update, 2 March 2020.

measures can result in far-reaching disruption of various economic sectors, which is clearly outside the normal functioning of the market.

- (55) In view of the above, this event qualifies as an exceptional occurrence because: (i) it was not foreseeable; (ii) it clearly distinguishes itself from ordinary events by its character and effects on both the undertakings directly affected and the economy as a whole; and (iii) it lies outside of the normal functioning of the market.
- (56) In that context, the COVID-19 outbreak can be considered as an exceptional occurrence within the meaning of Article 107(2)(b) TFEU.

Causal link between the COVID-19 outbreak and damage compensated by the measure

- (57) As an immediate consequence of the COVID-19 outbreak in Sweden, the authorities adopted the governmental measures, including recommendations, described in recitals (4) to (10) to limit the spread of the virus. Those measures, combined with the impact of restrictive containment measures elsewhere in neighbouring countries and in other Member States, immediately affected both demand and supply, especially for all companies in direct contact with members of the public, who were being encouraged to follow restrictive sanitary measures. Because of those measures, undertakings operating in several economic sectors have had to reduce and adapt their activities. Those constraints have resulted in a significant reduction in their turnover (as described in recitals (11) and (12)).
- (58) The damage for which a company can be compensated will be limited to damage directly linked to the COVID-19 outbreak and governmental administrative measures. The compensation period will not exceed 30 April 2020. In their application for damages, companies must justify the direct link between the damage claimed and such measures. The Commission notes in that regard that Sweden introduced its first governmental measures limiting general gathering on 12 March 2020.
- (59) The actual damage suffered by those undertakings and deriving from the exceptional occurrence is the difference between the profit/loss incurred in the period of the COVID-19 outbreak and related governmental measures and the profit/loss incurred in the reference period (net losses).
- (60) Only beneficiaries for which it is possible to establish a direct link between the damage suffered and the COVID-19 outbreak and the subsequent public measures seeking to mitigate and combat COVID-19, will be entitled to compensation. As mentioned in recital (29), undertakings must solemnly declare and show in their application that their decline in turnover is linked directly to the outbreak of the COVID-19 and the subsequent administrative measures adopted by the public authorities. That declaration is subject to the scrutiny of the auditors (recital (29)) and to the ex-ante review and ex-post control of the Swedish Tax Agency (recitals (37) and (38)).

Proportionality of the aid measure

- (61) In order to be compatible with Article 107(2)(b) TFEU, the aid must be proportionate to the damage caused by the exceptional occurrence. Aid must not

result in overcompensation of damage; it should only make good the damage caused by the exceptional occurrence.

- (62) The actual damage of the beneficiaries of the measure is the difference between the profit/loss incurred in the new circumstances (after the COVID-19 outbreak and restrictive measures recommended and controlled by the public authorities) and the profit/loss incurred before those events (net losses).
- (63) The approach adopted in the measure under examination, which will compensate only partially that damage (recital (27)) is appropriate. In light of the exceptional circumstances, including the large number of beneficiaries and the urgent need for a support measure that is administratively simple to implement, the Commission can accept, in the present case, that the calculation of the compensation is based on the available elements. The formula based on a decline of turnover, on the one hand, and a share of the fixed costs companies continue to bear, on the other, ensures that compensation will be below the actual damage suffered. In addition, the national authorities will check in each case that those elements correctly reflect the direct consequences of the COVID-19 outbreak and the related measures by public authorities (recitals (29), (37), (38), (60) and (68)). The Commission also notes that the fact that the Swedish authorities will aggregate turnover figures for the full two months, even where the damage is suffered on a shorter period, will have the general effect of reducing the figure for turnover decline and therefore lower the compensation based on percentage of fixed costs. Given the eligibility criterion of at least 30% of turnover decline compared to the reference period (as well as the obligation to provide documentary justification of the direct link between the decline and the COVID-19 outbreak and related measures by public authorities) and the formula used to calculate compensation, the Commission considers it acceptable that the calculation of the compensation is based on an aggregate of turnover and fixed costs for the full two months.
- (64) The Swedish authorities have put in place the following safeguards, so that the compensation under the notified measure does not exceed what is necessary to make good the damage:
- (65) The period for damage is limited to the period for which a beneficiary can prove a direct causal link in regard to its own situation, and it cannot in any event go beyond 30 April 2020 (recital (24)).
- (66) The amount of compensation, as calculated under the formula presented in recital (33), reflects a percentage of the fixed costs, where those fixed costs are unlikely to be avoided over a period of time of two months. In addition, apart from the fact that only a share of the fixed costs (corresponding to the share of turnover decline over the aggregated period of two months) will be considered, the multiplying factor of 0.75 further reduces both the amount of compensation and the risk that a company may be overcompensated in comparison with its actual damage suffered.
- (67) As an additional safeguard, for loss-making companies described in recital (35), for which the calculation formula may not exclude overcompensation, the aid amount will be limited to the nominal decline in gross profit for March and April 2020, compared to March and April 2019.
- (68) As indicated in recital (34), the compensation will be capped to maximum SEK 150 million (EUR 14 million).

- (69) The assessment of the aid applications is made by the Swedish Tax Agency based on audited documents and information. The Agency is also in charge of ex post controls and recovery in case of incorrect declarations (recitals (37) and (38)).
- (70) Aid received under the measure cannot be cumulated with other aid for the same eligible costs (recital (40)). Any payment made to beneficiaries is net of any amount recovered by insurance, litigation, arbitration or other source of compensation for the same damage. In addition, as explained in recital (39) there is an exclusion of any applicant responsible for the damage suffered, or that did not conduct its activities with due diligence or in compliance with applicable legislation, or that did not take any measure to mitigate its damage.
- (71) Finally, undertakings already in difficulty (as defined in the GBER, ABER or FIBER) on 29 February 2020 cannot benefit from the measure (recital (23)). Other restrictions concern undertakings that are insolvent or prohibited from conducting business (recital (22)).
- (72) The Commission, in light of those safeguards, and taking into account the limited period covered by the compensation, considers that the compensation under the scheme will not exceed the damage directly suffered by each beneficiary from the COVID-19 outbreak and related measures by public authorities. Overcompensation is therefore ruled out.
- (73) To the extent that the scheme applies in the sectors of primary production of agricultural products, fishery and aquaculture, the Commission recalls that it adopted guidelines on the interpretation of Article 107(2)(b) TFEU in those sectors²⁰. Those guidelines reflect the general principles of interpretation of Article 107(2)(b) TFEU. As already recalled, that provision must be subject to a narrow interpretation (recitals (51) and (52)). It applies in situations of exceptional occurrence; in the present case, the Commission concludes in this decision that the COVID-19 outbreak constitutes such an exceptional occurrence (recitals (53) to (56)). The present scheme aims at compensating the damage resulting from the exceptional occurrence. The aid benefits directly each undertaking concerned. The scheme is established shortly after the date of the occurrence of the event, and the aid must be applied for at the latest by 31 August 2020 and granted before 31 December 2020 (recital (25)). It therefore meets the conditions in those Guidelines which require that the aid scheme must be established within three years from the date of the occurrence of the event and that the aid must be paid out within four years of that date. Damage that will be open to compensation must be directly linked to the exceptional occurrence and compensation cannot exceed the damage suffered by the company individually. The methodology for setting the amount of the compensation ensures that it is directly linked to the damage suffered by each company as a result of the exceptional occurrence (recital (29)); it is calculated by comparing the decline in net turnover during the compensation period to a reference period before the event, and applying to it a formula, on the basis of audited statements ensuring

²⁰ See Part II, Chapter I, Section 1.2.1.1. of the [European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02014XC0701(01)-20181109&from=EN) ([https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02014XC0701\(01\)-20181109&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02014XC0701(01)-20181109&from=EN));

Section 4 of the Guidelines for the examination of State aid to the fishery and aquaculture sector (https://ec.europa.eu/competition/state_aid/legislation/mare/2018-11-consolidated-version-guidelines-for-the-examination-of-state-aid-to-fishery-and-aquaculture-sector_en.pdf)

that the aid remains proportionate and that no company could benefit from overcompensation (recitals (33) to (35)). The Commission therefore considers that the scheme, to the extent it applies in the sectors of primary production of agricultural products, fishery and aquaculture, fulfils the conditions of those guidelines and is compatible with Article 107(2)(b) TFEU.

- (74) In view of the above, the Commission considers that the notified aid scheme is compatible with the internal market in accordance with Article 107(2)(b) TFEU.
- (75) Sweden must ensure that detailed records regarding all measures involving the granting of aid are maintained for 10 years from the date of granting the aid and must be provided to the Commission upon request.

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(2)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President