Commission Decision (EU) 2015/1825 of 31 July 2014 on non-notified State aid SA.34791 (2013/C) (ex 2012/NN) — Belgium — Rescue aid for Val Saint-Lambert SA (notified under document C(2014) 5402) (Only the French text is authentic) (Text with EEA relevance)

COMMISSION DECISION (EU) 2015/1825

of 31 July 2014

on non-notified State aid SA.34791 (2013/C) (ex 2012/NN) — Belgium — Rescue aid for Val Saint-Lambert SA

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to those Articles[1],

Whereas:

1. PROCEDURE

(1) On 11 May 2012, Belgium pre-notified the Commission of rescue aid for Val Saint-Lambert SA (hereinafter 'VSL') in the form of a soft loan of EUR 1 million. Noting that part of the rescue aid, EUR 400 000, had already been granted on 3 April 2012, the Commission registered this case in the register of non-notified aid. The aid remained non-notified and was not subsequently notified.

(2) On 3 October 2012, the Belgian authorities notified restructuring aid for VSL, consisting of an extension of the EUR 1 million loan by 10 years.

(3) By letter dated 1 February 2013, the Commission informed Belgium of its decision to initiate the formal investigation procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union (hereinafter 'TFEU') with regard to both of these aid measures and other measures granted to VSL.

(4) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Union*[2] (hereinafter 'the opening decision').

The Commission invited interested parties to submit their comments on the aid and measures at issue.

(5) The Commission has not received any comments from third parties in this regard.

(6) Belgium sent its comments on the opening decision on 21 March 2013.

(7) By letter dated 14 November 2013, the Belgian authorities informed the Commission that they wished to withdraw the notification of the restructuring aid. That measure is consequently not considered in this Decision.

(8) By letters dated 17 October and 14 November 2013 and an email dated 10 December 2013, the Commission requested further information from the Belgian authorities. The Belgian authorities responded by letter dated 12 December 2013 and by email dated 11 December 2013. They requested an extension of the deadline for replying to the request for information dated 14 November 2013. This extension was granted by letter dated 19 December 2013. The Belgian authorities' response was finally received on 6 January 2014. The Commission sent a further request for information on 7 February 2014. The Belgian authorities and the lawyer representing the Société Wallonne de Gestion et de Participations (hereinafter 'Sogepa') replied on 25 and 27 February 2014 respectively. A further request for information was sent to the Belgian authorities on 11 April 2014. By letter dated 30 April 2014, the Commission extended the deadline granted to the Belgian authorities to 23 May 2014. Their response was, in fact, received by the Commission on that date.

(9) By letter dated 18 June 2014, the Belgian authorities authorised the Commission to adopt and notify this decision solely in French.

2. DESCRIPTION OF THE MEASURES AND AID IN QUESTION

2.1. The beneficiary

(10) VSL produces high-end or luxury crystal items. It is based at Seraing, in Wallonia, where it employs 52 people and has an annual turnover of around EUR 2 million. Its products are highly reputable but the company's history has been marked by a number of bankruptcies. In particular, in 2002, Cristallerie du Val Saint-Lambert SA went bankrupt and its activities were taken over by La cristallerie du Val Saint-Lambert SA (hereinafter 'CVSL'), which was established on 19 December 2002. Liège Commercial Court then declared CVSL bankrupt on 11 August 2008. The business was taken over by two private shareholders: Châteaux Finances Corporation (hereinafter 'CFC'), a holding company for several property and wine and gastronomy firms, and Société de Promotion d'Espaces Commerciaux et Industriels (hereinafter 'SPECI'), a property management and development company.

(11) Initially, CFC and SPECI held 70 % and 30 % of VSL respectively. In March 2011, CFC and the Walloon Region made a capital injection that SPECI did not participate in. VSL is now owned by CFC (76 %), the Walloon Region (17 %) and SPECI (7 %).

(12) VSL has again been in bankruptcy proceedings since 14 October 2013.

(13) VSL benefits from the use of an exclusive licence for the VSL trade marks, designs and sketches. This licence was granted to it in January 2009 by the Walloon Region, the current owner of the trade marks. Previously, the VSL trade marks were held (until October 2005) by the Compagnie financière du Val (hereinafter 'CFV'), and prior to that the Société de Gestion des marques du Val Saint-Lambert, a company wholly owned by Sogepa (which in turn is wholly owned by the Walloon Region).

(14) By means of an agreement dated 5 October 2005, CFV sold these trade marks to Interagora SA, the parent company of CVSL, for EUR [500 000-800 000][(3)]. On 11 August 2008, Interagora SA, which had become Val Saint-Lambert International SA (hereinafter 'VSLI'), went bankrupt and a balance of EUR 280 000 remained due to CFV. The Walloon Region then used its right of first refusal to buy the trade marks for EUR [700 000-1 000 000] in 2008.

2.2. Description of the measures and aid

2.2.1. *Measure 1: rescue aid of EUR 1 million on 3 April 2012*

(15) The rescue aid for VSL consisted of a soft loan of EUR 1 million, granted on 3 April 2012 by the Walloon Region, represented by Sogepa (Sogepa acts on behalf of the Region for all measures where there is intervention by Sogepa), for a 6-month period at a rate of 3,07 % (base rate of 2,07 plus 100 basis points). The rate then increased by 100 basis points to 4,07 %, by way of compensation for Sogepa's costs. Part of the EUR 1 million loan, namely EUR 400 000, was granted on the same day that the credit agreement was concluded (3 April 2012), without any notification to the Commission within the meaning of Article 108(3) TFEU. The balance of the loan, EUR 600 000, was granted on a later date never made known to the Commission. The Commission, however, considers that the entire loan, namely EUR 1 million, was granted as this is recorded in the statement of claim lodged with Liège Commercial Court in the context of VSL's bankruptcy, which was decided by that court on 14 October 2013.

2.2.2. *Measure 2: restructuring aid*

(16) On 3 October 2012, the Belgian authorities notified restructuring aid. This consisted in extending the EUR 1 million loan (i.e. Measure 1) by 10 years. However, by letter dated 14 November 2013, the Belgian authorities informed the Commission that they were withdrawing the notification concerning the restructuring aid. The Belgian authorities confirmed by letter dated 12

December 2013 that this aid was not implemented. The restructuring aid is consequently not examined in this Decision.

2.2.3. *Measures 3 to 8*

(17) Prior to the rescue aid noted above (Measure 1), the Walloon Region, represented by Sogepa and other public bodies held by the Region and acting on its behalf, such as CFV, intervened six times on behalf of VSL between 2008 and 2011, in the following forms: a guarantee of EUR 150 000 (Measure 3), the use and sale of the Val Saint-Lambert trade marks (Measure 4), a loan of EUR 1,5 million (Measure 5), a capital injection of EUR 1,5 million (Measure 6), *de minimis* aid (Measure 7) and the funding of decontamination work in the context of the Cristal Park project (Measure 8).

Measure 3: Guarantee of EUR 150 000, September 2008

(18) CVSL, which operated the crystal works before VSL, was declared bankrupt on 11 August 2008 by Liège Commercial Court. In order to ensure the continuity of the business despite the bankruptcy, and in order to find someone to take over the company, the Walloon Region authorised Sogepa (by decision dated 28 August 2008) to issue a guarantee of EUR 150 000 for an ING loan of EUR 300 000 to CVSL's insolvency administrators. This unremunerated guarantee was granted to CVSL's insolvency administrators on 24 September 2008.

Measure 4: Sale and use of the Val Saint-Lambert trade marks, January 2009

(19) As noted above, CFV owned the VSL trade marks until October 2005.

(20) By agreement dated 5 October 2005, CFV sold these trade marks to Interagora SA for EUR [500 000-800 000]. The EUR 700 000 was to be paid in one instalment of EUR [100 000-500 000] and 10 annual payments of EUR [10 000-50 000]. Article 7 of the agreement gave the Walloon Region a right of first refusal should Interagora SA or its successors envisage selling the trade marks, designs and models in question before 5 October 2010.

(21) On 11 August 2008, Interagora SA, which had become VSLI, was declared bankrupt and a balance of EUR 280 000 remained due to CFV.

(22) On 1 October 2008, CVSL's insolvency administrators signed a Memorandum of Understanding with CFC and SPECI (the buyers of CVSL's business), which also included the purchase of the Val Saint-Lambert trade marks from VSLI for EUR [700 000-1 000 000]. The Walloon Region then exercised its right of first refusal (Article 7 of the agreement of 5 October 2005) at the same price and informed the insolvency administrators on 7 November 2008. It then entered the following conditions in the agreement dated 29 January 2009, concluded between CFV and VSL:

— it granted an exclusive, unlimited and global licence to VSL to use the intellectual rights relating exclusively to the trade marks, logos and lettering ‘Val Saint-Lambert’, of which the Walloon Region remained the owner. The

licence was granted in return for remuneration equivalent to 1,5 % of earnings before interest, taxes, depreciation and amortisation (Ebitda) for the first 5 financial years and 5 % as from the sixth financial year. The licence was to be revoked in the event of VSL's insolvency, liquidation or reorganisation or if the agreement was terminated through VSL's fault,

— it granted VSL an option to purchase the intellectual rights. VSL would be able to exercise this option from the fourth year following the signing of the agreement until the last day of the fifth year, for EUR [700 000-1 000 000] (price proposed by the buyers in the context of the Memorandum of Understanding on the takeover dated 1 October). VSL would also be able to exercise this option at the same price of EUR 800 000, indexed to the Belgian consumer price index, between the sixth and 10th years. As from the 11th year, the Walloon Region would be able to require that VSL buy the intellectual rights for the same indexed price of EUR [700 000-1 000 000],

— should the purchase option be exercised, VSL would have to pay all amounts outstanding to CFV (and noted in recital 21).

(23) In their comments, the Belgian authorities informed the Commission that, following the judicial reorganisation[4] begun on 28 February 2012, the balance outstanding was no longer EUR 280 000 but EUR 61 250 following the reduction of EUR 43 750 decided in the context of the judicial reorganisation and following the reimbursement of EUR 105 000 made before the reorganisation.

Measure 5: Loan of EUR 1,5 million, August 2009

(24) On 31 August 2009, the Walloon Region — represented by Sogepa — granted a loan of EUR 1,5 million to VSL at a rate of 4,7 % for a 7-year period with a view to enabling the company to purchase new furnaces. The loan was guaranteed by a first-priority mortgage on VSL's buildings, which, according to the Belgian authorities, were of a higher value than the loan.

Measure 6: Capital injection of EUR 1,5 million, March 2011

(25) On 17 March 2011, the Walloon Region decided to make a capital injection of EUR 1,5 million into VSL to enable a new furnace to be purchased. Between 25 May 2009 and 29 March 2011, CFC (the majority shareholder in VSL) contributed a debt-to-equity swap of EUR 5,2 million to the company.

Measure 7: Prior *de minimis* aid

(26) Between February 2010 and November 2012, VSL received EUR 197 503 through different *de minimis* aid measures. On 25 March 2011, Sogepa transferred aid of EUR 97 785 for an Interim Manager. However, on 25 September 2012, Sogepa requested repayment of this aid with interest when it realised that the ceiling of EUR 200 000 laid down by Commission Regulation (EC) No 1998/2006[5] had been exceeded.

Measure 8: Decontamination of VSL's buildings in the context of the Cristal Park project and VSL's use of some of SPAQuE's buildings free of charge

(27) The Cristal Park project provided for the use of public funds to decontaminate buildings belonging to VSL.

(28) By letter dated 20 August 2012, SPAQuE (Société Publique d'Aide à la Qualité de l'Environnement) made a conditional offer to VSL to purchase the buildings for EUR 2 040 000, minus the cost of decontaminating them, which had still to be assessed. The price had been assessed at EUR 2 040 000 on 29 March 2012 by independent experts Cushman & Wakefield, who had specified that they were not able to estimate the rehabilitation costs themselves. By letter dated 5 September 2012, VSL informed SPAQuE that the consultancy firm Geolys had estimated the decontamination cost as being EUR 219 470 in August 2012. In the same letter, VSL also informed SPAQuE that it was willing to sell the buildings for EUR 2 040 000 minus EUR 220 000. On 13 December 2012, the buildings in question were sold to SPAQuE for EUR 2 040 000 minus the decontamination costs, evaluated at EUR 220 000, or a total of EUR 1 820 000. Meanwhile, a note dated 1 December 2011 sent by the Belgian authorities, had, however, evaluated the decontamination costs at several million euros.

(29) Prior to the sale on 13 December 2012, during a local council meeting on 10 September 2012, Seraing local council approved two draft option agreements, the first between SPAQuE and the town of Seraing and the second between the town of Seraing and SPECI. These drafts set out the conditions agreed between these three bodies for the future transfer of the buildings sold to SPAQuE following their decontamination.

(30) Only the sale dated 13 December 2012 has gone through to date. The transactions provided for in the draft agreements approved by Seraing's local council and mentioned in the previous paragraphs ((28) and (29)) were not implemented. The decontamination work has not commenced.

(31) Moreover, an agreement for the temporary provision of part of the Val Saint-Lambert crystal works site was signed between SPAQuE and VSL on 11 December 2012. Under this agreement, SPAQuE made a number of buildings now belonging to it available to VSL free of charge for a limited period (cf. recital 27). In return, VSL agreed to work with SPAQuE to provide all useful and necessary information regarding the renovation and rehabilitation works to be conducted on the site.

2.3. Grounds for initiating the formal investigation procedure

(32) The Commission considered that all the measures under investigation constituted State aid within the meaning of Article 107(1) of the TFEU. The Commission doubted whether Measures 1 (rescue aid), 3 (unremunerated guarantee) and 4 (use and sale of the trade marks) complied with the market-economy investor principle. As regards Measure 5 (loan of EUR 1,5 million), the Commission had concerns as to whether interest rate on the loan involved

aid. The Commission also queried the *pari passu* nature of Measure 6 (capital injection) and its compliance with the market-economy investor principle. With regard to Measure 7, which groups together *de minimis* aid measures, the Commission was not sure that each of them met the conditions stated in the Regulation cited above[(6)]. Finally, with regard to Measure 8 (sale of buildings and provision of some buildings free of charge), the Commission was not sure whether the sale price of the plots sold to SPAQuE by VSL involved aid, given the uncertainty surrounding the assessment of the decontamination costs. The Commission also had doubts about the aid present in SPAQuE's provision of buildings to VSL free of charge. With regard to Measure 3, the Commission also raised doubts about whether or not there was economic continuity between CVSL and VSL. Finally, the Commission had doubts regarding the compatibility of all these measures with the internal market and, more specifically, the Community guidelines on State aid for rescuing and restructuring firms in difficulty[(7)] (hereinafter 'the Rescue and Restructuring Guidelines') (Measures 1, 2 and 3).

3. COMMENTS BY BELGIUM ON THE OPENING DECISION

3.1. On the classification of VSL as an undertaking in difficulty

(33) The Belgian authorities are not contesting VSL's classification as an undertaking in difficulty after 8 February 2012, the date on which the request for a judicial reorganisation was filed (which, as will be seen, is significant when analysing several of the measures in question). Nonetheless, they consider that, prior to that time, VSL could not be described as an undertaking in difficulty because, according to them, VSL was a newly created company and was benefiting from the unconditional support of its majority shareholder, CFC, in accordance with paragraphs 10 and 11 of the Rescue and Restructuring Guidelines and the Commission's decision-making practice[(8)].

3.2. The rescue aid (Measure 1)

(34) In the opening decision, the Commission considered that this loan, granted without any collateral to an undertaking in difficulty, could constitute aid since VSL would not have been able to obtain a loan under such conditions from a private bank.

(35) In their comments, the Belgian authorities do not contest the fact that the soft loan of EUR 1 million, granted by the Walloon Region on 3 April 2012, constituted aid. Nonetheless, they took the view that this measure constituted rescue aid in accordance with point 13 of the Rescue and Restructuring Guidelines because VSL's difficulties were intrinsic and not the result of an arbitrary allocation of costs within the group and were too serious to be resolved by the group itself. They explain that CFC, given the range of its different activities and holdings, was unable to devote all of its resources to VSL. CFC's liquidity had significantly declined since the end of the 2011

financial year and stood at only EUR 130 000 on 19 October 2012. The Belgian authorities also point out that, given the frequency with which CFC had advanced funds to VSL (EUR 9,5 million since VSL was set up) and the persistence of VSL's disappointing financial results, CFC was no longer able to resolve VSL's problems using the group's resources.

(36) Moreover, with regard to the 'one time, last time' principle, under which Measure 1 is allegedly incompatible with points 72 et seq. of the Rescue and Restructuring Guidelines because Measures 3, 5, 6 and 7 constitute rescue or restructuring aid, the Belgian authorities considered in contrast that:

— Measure 3 (guarantee of EUR 150 000) was granted to CVSL's insolvency administrators in September 2008 and not to VSL. The Belgian authorities consider, moreover, that there was no economic continuity between VSL and CVSL,

— Measure 5 (loan of EUR 1,5 million) contained no element of aid given the interest rate applied and the quality of the collateral,

— Measure 6 (capital injection of EUR 1,5 million) contained no element of aid because it took place at the same time as a capital contribution of EUR 5,2 million from CFC in the form of a debt-to-equity swap,

— The *de minimis* aid measures were not granted to an undertaking in difficulty and must not be considered under the principle of 'one time, last time'. Moreover, they were clearly lower than the advances granted by CFC since 2009.

3.3. The restructuring aid (Measure 2)

(37) Following withdrawal of the notification of this measure and the fact that it was not implemented by the Belgian authorities, the measure is not examined in this Decision and hence the Belgian authorities' comments in this regard cease to be relevant.

3.4. The guarantee of EUR 150 000 (Measure 3)

(38) In the opening decision, the Commission highlighted the fact that the EUR 150 000 guarantee had been granted without remuneration to an undertaking in difficulty, given that CVSL was insolvent at that time. It therefore seems to have given CVSL an advantage since no private operator would have granted this guarantee without remuneration.

(39) The Belgian authorities did not comment on whether or not this measure could be classified as aid.

(40) Moreover, they pointed out that the guarantee was granted to the insolvency administrators and not to the insolvent CVSL. They maintain, however, that there was no economic continuity between CVSL and VSL. They consider that they have sufficiently demonstrated the break in economic continuity between CVSL and VSL. They stress that the volume of assets transferred to

VSL was greater than that held by CVSL and totally separate, with the result that any continuity must be ruled out.

(41) The Belgian authorities also point out that the new shareholders in VSL always intended to base the takeover of CVSL on a large-scale property development and tourist centre, Cristal Park. According to them, the economic logic of the takeover thus represented a clean break with CVSL's operation of the crystal works, which was based solely on the manufacture of crystal products.

3.5. **The use and sale of the Val Saint-Lambert trade marks (Measure 4)**

(42) In the opening decision, the Commission noted that the mechanism for obtaining remuneration for the concession granted to VSL, based on VSL's future Ebitda, seemed to confer an economic advantage. In fact, the Walloon Region was assigning a valuable asset without any guarantee of remuneration, since VSL's Ebitda could be negative, as it had been in the previous years, and without expecting any profit over the term of the concession other than indexing for inflation, which, moreover, would not come into play until the sixth year. A private operator would probably have opted for a form of remuneration that included at least a fixed and certain basis. Moreover, the opening decision considered the possibility of aid being present in the conditions for assigning the trade mark.

(43) The Belgian authorities consider that it is unfounded for the Commission to refer to the bad results of VSL's predecessors in order to criticise the way in which the Walloon Region calculated the remuneration it was to receive in return for granting the licence for the trade marks.

(44) On the contrary, they feel that the way in which remuneration for use of the trade marks was calculated (on the basis of Ebitda) was not devoid of commercial logic. This choice was justified, in their opinion, because Ebitda is one of the accounting indicators that enable the Walloon authorities to measure commercial success in terms of the sale of products for which it holds the trade mark.

(45) The Belgian authorities have not commented on the conditions for the future sale of the VSL trade marks.

3.6. **The loan of EUR 1,5 million (Measure 5)**

(46) In the opening decision, the Commission had doubts about the quality of the collateral. It emerged from documents submitted to the Commission that the mortgage related, at least in part, to VSL buildings requiring rehabilitation. So the real value of these plots of land was not known and was possibly negative. It therefore seemed that the interest rate on the loan, set at 4,7 %, was too low. In fact, depending on the quality of the collateral, it would be appropriate to add between 400 and 1 000 basis points to the base rate of 1,778 %.

(47) The Belgian authorities consider that the value of the collateral was excellent as it covered the entire loan. Their assessment was based on an expert report produced by the Marengo consultancy in January and February 2009.

3.7. The capital injection of EUR 1,5 million (Measure 6)

(48) In the opening decision, the Commission noted that the capital injection had not been agreed on the basis of a business plan but on the basis of a simple financial projection. This gave no explanation as to how the company intended to ensure its recovery and no explanation regarding the remuneration it intended to grant to the provider of the capital, namely the Walloon Region. Moreover, the Walloon Region and CFC did not seem to be in the same situation or running the same risks. The Walloon Region was not a VSL shareholder prior to this measure and had no relevant economic interest. In contrast, CFC was a shareholder in VSL and had an interest in seeing the company recover or, at least, limit its losses.

(49) The Belgian authorities take the view that VSL was not in difficulty at the time this measure was granted in so far as the majority shareholder had given its unconditional support and financial backing to its subsidiary.

(50) They criticise the Commission for relying on the *ex post* profitability of an investment in order to assess whether or not it involves State aid; this practice is not in line with European case law.

(51) They maintain that the capital injection was of less significance and was provided concurrently with that of CFC's shareholders. Moreover, even though the Walloon Region was not a VSL shareholder, it had an economic advantage associated with the capital injection because, according to the Belgian authorities, it was in the interest of the Walloon Region to support the business so that it would recover and subsequently repay the loan.

3.8. The *de minimis* aid (Measure 7)

(52) In the opening decision, the Commission considered that VSL seemed to have been in difficulty since 2009 and was thus not able to benefit from this kind of aid.

(53) According to the Belgian authorities, VSL could not be classified as an undertaking in difficulty because it was a company set up less than 3 years previously which enjoyed the full confidence of its majority shareholder up to the time of the judicial reorganisation. Consequently, these measures fall within the scope of the *de minimis* Regulation and cannot be considered as aid.

3.9. Decontamination of VSL's buildings in the context of the Cristal Park project and VSL's use of some of SPAQuE's buildings free of charge (Measure 8)

(54) In the opening decision, the Commission considered that SPAQuE had made a commitment to purchase buildings without being aware of the cost of their rehabilitation.

(55) The Belgian authorities explain that, in the matter of decontamination costs, Walloon legislation limits the extent of a property owner's obligations in the case of historical pollution and on the basis of the designated use of the locations of polluted buildings in local development plans. The Belgian authorities further maintain that, although VSL had an obligation to deal with the pollution, it could only be required to rehabilitate the site to bring it into line with its current designated land use, i.e. industrial use. Consequently, an estimate must be made of the cost of decontaminating a site in order to bring it into line with the designated use of the land at the time of sale, in this case industrial use. The Belgian authorities consider that this cost assessment was presented in the Geolys report. These costs were then deducted from the sale price.

(56) The Belgian authorities go on to explain that, following the purchase of the buildings by SPAQuE, the decontamination work was to be undertaken by a public authority, SPAQuE, with the aid of public funds. In accordance with the Guidelines on State aid for environmental protection, remediation works conducted by a public authority on one or more plots of land belonging to it do not constitute State aid.

(57) With regard to the free provision of buildings to VSL, the Belgian authorities consider that this relates to buildings belonging to SPECI, a private limited company.

4. COMMENTS BY THIRD PARTIES ON THE OPENING DECISION

(58) The Commission has not received any comments.

5. ASSESSMENT OF THE AID

5.1. Assessment of the presence of aid within the meaning of Article 107(1) of the TFEU

(59) Article 107(1) of the TFEU stipulates that any aid granted by a Member State or using State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings shall, insofar as it affects trade between Member States, be incompatible with the internal market.

(60) It emerges from this provision that, to be recognised as State aid, the measures under investigation must (i) have a state origin, i.e. involve state resources and be attributable to the State, (ii) give an economic advantage to their beneficiary, (iii) be selective, and (iv) be likely to distort competition and affect trade between Member States.

(61) Belgium has not challenged the classification of the rescue aid (Measure 1) as aid. The Commission took note of this in its opening decision. Belgium withdrew its notification of Measure 2 following the initiation of the official investigation procedure. That measure is therefore not analysed in this Decision. Belgium contests the classification as aid, however, for Measures 3 to 6, 7 and 8 since these measures offered no economic advantage to their beneficiary or were *de minimis*.

5.1.1. *Presence of state resources*

Measures 1, 3, 5 and 6

(62) Measure 1 (the loan of EUR 1 million), Measure 3 (the guarantee of EUR 150 000), Measure 5 (the loan of EUR 1,5 million) and Measure 6 (the capital injection of EUR 1,5 million) were granted by Sogepa on behalf of the Walloon Region. Since Sogepa is an entirely public company, its resources may be considered state resources within the meaning of Article 107(1) of the TFEU[(9)].

Measure 4

(63) The Commission observes that the agreement granting VSL an exclusive and unlimited right to use the Val Saint-Lambert trade marks and arranging their sale was concluded between VSL and the Walloon Region. This measure, along with the conditions for the future sale of trade marks, involves the presence of public resources.

Measure 7

(64) According to the information provided by the Belgian authorities, the aid they described as *de minimis* was also granted by an authority or public company, although Belgium has not specified for each occasion whether it related to the Walloon Region or Sogepa. Whatever the case, these are public resources and, moreover, the Belgian authorities do not contest the state origin of these measures.

Measure 8

(65) The Commission notes that SPAQuE is a public company, a subsidiary of Société Régionale d'Investissement de Wallonne (SRIW) and that the funds intended for decontamination of VSL's buildings had already been granted to it by the Walloon government[(10)]. SPAQuE's purchase of VSL's plots of land and the provision of some of them free of charge involves the presence of public resources.

5.1.2. *Criterion of imputability*

(66) In order to judge imputability, the Court of Justice bases itself on ‘a set of indicators arising from the circumstances of the case and the context in which that measure was taken’[(11)].

(67) Two public bodies of the Walloon Region, acting on its behalf, Sogepa and SPAQuE, granted the measures listed in section 2.2 above.

(68) Sogepa, the Société Wallonne de Gestion et de Participations, is a company with public share capital, which is wholly owned by the Walloon Region. It implements decisions taken by the Walloon Government relating to intervention in commercial companies and managing those interventions. It was formed following the merger in 1999 of the Société Wallonne pour la Sidérurgie (SWS) and the Société pour la gestion de participations de la Région wallonne dans des sociétés commerciales (SOWAGEP).

(69) Sogepa acts at the request of the Walloon Government. Article 3(1) of its statutes states that 'The object of the company is to carry out all tasks entrusted to it by the Walloon Government, …. In this context, it implements decisions to intervene in commercial companies taken by the Walloon Government and manages the holdings, obligations, advances or interests that the Walloon Region may have in such companies.'

(70) Established in 1991, SPAQuE specialises in landfill rehabilitation and brownfield decontamination. It is responsible for producing a list of polluted sites in the Walloon Region. SPAQuE is a subsidiary of the Société Régionale d'investissement de la Wallonie (SRIW), in which the Walloon Region has a 98,66 % shareholding, and its objective is to contribute to the development of the Walloon economy by providing financial support to Walloon undertakings or undertakings established in the Walloon Region which are operating industrial or service projects that create value added.

(71) Under the management contract signed in July 2007 between the Walloon Government and SPAQuE for the 2008-2012 period and renewed in October 2012 for a further 6 months, SPAQuE implements the activities carried out in the context of delegated tasks entrusted to it by the Walloon Region. In this context, it acts on instruction from the Region. The Region establishes, in particular, the list of priority sites and specific rehabilitation mandates.

(72) In the light of this information, the Commission considers that the Walloon Region takes decisions that are then implemented by Sogepa. The Region, through its delegated tasks, is capable of directly influencing the actions undertaken by SPAQuE.

(73) Consequently, the Commission concludes at this stage of the procedure that the measures under investigation involve state resources and are attributable to the State.

5.1.3. *Criterion of selectivity*

(74) The condition with regard to selectivity is easily met. The Commission noted in the opening decision that the measures under investigation were all granted

in favour of just one company, VSL or CVSL's insolvency administrators for Measure 3 (the guarantee of EUR 150 000).

5.1.4. *Presence of an economic advantage*

(75) It is now necessary to examine the criterion of economic advantage, both for the rescue aid and for the other measures under investigation, in the light of the comments made by the Belgian authorities in relation to the opening decision.

Measure 1: Rescue aid of EUR 1 million

(76) The rescue aid granted in the form of a EUR 1 million loan at an interest rate of 3,07 % plus 100 basis points, by way of remuneration for Sogepa, gives VSL an economic advantage. The loan was granted without any collateral to an undertaking in difficulty, which 2 months earlier had submitted a request for judicial reorganisation (cf. section 5.2.1). As recognised by the Belgian authorities, VSL — being an undertaking in difficulty — would never have been able to obtain a loan from a private bank. Consequently, this measure conferred an advantage on VSL of EUR 1 million (value of the loan).

Measure 3: Guarantee of EUR 150 000

(77) The Commission's doubts concerned whether or not this public intervention complied with the market-economy investor principle.

(78) In their comments, the Belgian authorities did not address the issue of economic advantage and discussed only whether or not there was economic continuity between CVSL and VSL.

(79) According to information finally obtained by the Commission, the guarantee related to a EUR 300 000 loan granted by ING to CVSL's insolvency administrators. The guarantee was for EUR 150 000, without remuneration. The loan was intended to enable CVSL to continue its activity until the company's eventual recovery.

(80) The Commission notes that the Belgian authorities informed it that no guarantee agreement was drawn up or signed by the interested parties at the time it was granted. Consequently, the only evidence it has is a letter from Sogepa dated 24 September 2008 and sent to ING in which Sogepa confirms its guarantee to cover any eventual losses resulting from the continuation of activities, up to a maximum of EUR 150 000. The Commission therefore notes that Sogepa granted an unremunerated guarantee to the insolvency administrators of a bankrupt company. Moreover, the Belgian authorities stated that ING made the granting of the loan conditional on obtaining the guarantee. Consequently, in the light of these factors, the Commission takes the view that, without public intervention, the loan as a whole would not have been granted. Moreover, the Commission notes that the Walloon Region had no direct legal or commercial link with CVSL. The Region was not a shareholder in CVSL, either directly or indirectly through

Sogepa. Consequently, the Region had no commercial interest in granting this unremunerated guarantee to CVSL.

(81) The Commission concludes that the granting of this unremunerated guarantee conferred an advantage on CVSL. The advantage corresponds to the premium that a private company would have required to grant the guarantee under similar circumstances, and which Sogepa waived.

(82) The Belgian authorities pointed out that the loan of EUR 300 000 was fully repaid on 28 July 2009 by the insolvency administrators out of available funds and by calling in the guarantee to the tune of EUR 150 000.

(83) Consequently, the amount of aid corresponds to the difference between the interest rate on the loan that CVSL's insolvency administrators would have paid on the market in the absence of the public guarantee and the interest rate actually paid with the guarantee.

(84) This approach satisfies point 4.2 of the Commission's Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees[12]: 'For an individual guarantee the cash grant equivalent of a guarantee should be calculated as the difference between the market price of the guarantee and the price actually paid. Where the market does not provide guarantees for the type of transaction concerned, no market price for the guarantee is available. In that case, the aid element should be calculated in the same way as the grant equivalent of a soft loan, namely as the difference between the specific market interest rate this company would have borne without the guarantee and the interest rate obtained by means of the State guarantee after any premiums paid have been taken into account.'

(85) This amount must be calculated as follows:

Amount of aid = (14,59 % – 10,75 %) × 300 000 × 343/365 = EUR 10 825,64

(86) The 14,59 % is obtained as follows: 4,59 % (Belgium's base rate in August 2008[13]) to which must be added 1 000 basis points due to CVSL's situation (a company with a CCC rating and low collateralisation[14]). 10,75 % represents the ING interest rate and 343 days is the period for which the loan was granted until it was repaid.

Measure 4: Sale and use of the Val Saint-Lambert trade marks

(87) The Commission's doubts related to whether or not the conditions governing the sale and the remuneration of VSL's use of the trade marks (remuneration equivalent to 1,5 % of Ebitda for the first 5 financial years and 5 % as from the sixth financial year) complied with the market-economy investor principle[15].

(88) The agreement of 29 January 2009 between Compagnie financière du Val, owned by the Walloon Region, and VSL provides for the granting of an exclusive licence to use the trade marks and lays down the conditions for VSL to buy back the trade marks (cf. recitals 19 et seq.).

(89) The Commission notes that the exclusive licence for the use of the trade marks was subject to conditions that would not have been required by a private operator. In fact, the Walloon Region required the following quid pro quo from VSL: ‘This licence for use may be cancelled at any moment, automatically and without notice by the Walloon Region, should VSL (or its successors) be unable to demonstrate production on the Val Saint-Lambert site at Seraing of high added-value crystal products now in activity at a minimum 60 % of the full-time equivalent employment, excluding temporary lay-offs, existing on the day of CVSL's bankruptcy …’. The Commission notes that, in return for granting the exclusive licence, the Region imposed on VSL an obligation to retain production at the Seraing site and to maintain a previously determined level of employment. These conditions had an impact on the remuneration of the licence and on the price of the future sale of the trade marks.

(90) The Commission considers that the political conditions (retaining activity at Seraing and maintaining a certain level of employment) reduced the remuneration for the use of the licence and the sale price. Consequently, the remuneration of 1,5 % of Ebitda over the first 5 financial years and 5 % as from the sixth financial year cannot be considered as remuneration in line with a market price. Nor can the price of EUR [700 000-1 000 000] proposed by the buyers in October 2008 in the context of the takeover process be considered to be a market price due to the presence of the above conditions, which a market-economy investor would not have imposed and which may have discouraged some investors from making a bid.

(91) The amount of aid resulting from the use of the trade marks corresponds to the difference between the remuneration that a private investor would have proposed without the political conditions imposed by the Walloon Region and the remuneration actually granted. In the context of the recovery procedure, the Belgian authorities must appoint an independent expert, qualified to make this kind of assessment, selected by means of an open and transparent process and appointed in agreement with the Commission. The expert will produce a study enabling the remuneration to be determined in accordance with generally used and accepted methods of managing intellectual property assets.

(92) The measure relating to the sale was never implemented due to VSL's bankruptcy. The sale of the trade marks did not take place and the Walloon Region still owns them. Consequently, the Commission considers that it is not appropriate to order recovery of this measure since it was never implemented.

Measure 5: Loan of EUR 1,5 million

(93) The Commissions' doubts related to the value of the loan's collateral and the interest rate. The Commission considered that, since the actual value of the plots of land was used as collateral, the value could be lower or even negative as the plots of land or some of them had to be decontaminated.

(94) The Commission notes from documents provided to it that the mortgage related in part to VSL buildings that needed to be rehabilitated and decontaminated if they were to be sold. The Belgian authorities replied that, on the date the expert report was produced, there was no legal obligation incumbent upon the owner of the buildings in question. Consequently, the value of the buildings should not take into account the possible costs of decontamination.

(95) In their comments on the opening decision, the Belgian authorities produced an appraisal, conducted in January and February 2009 by the Marengo firm of consultants, which assessed the market value of the immoveable assets covered by the mortgage at EUR 3 137 000. Under a voluntary public sale, these assets were worth EUR 2 871 000 and EUR 1 915 000 under a distressed sale. The Belgian authorities concluded that the value of the collateral was excellent as it covered the entire loan in question.

(96) Moreover, the Board of Directors' management report annexed to the annual financial statements for the year ending 31 December 2009 points out that the Marengo report valuing VSL's immoveable assets during 2009 indicated that the established values were accurate only if the land and buildings were decontaminated, which was not yet the case. The report continues by noting that VSL had received an offer to buy all the land and buildings ‘as they are’ for EUR 2 000 000 from the company responsible for developing the Cristal Park project. In order to better reflect the actual situation, the Board of Directors thus decided to include in the balance sheet only the value corresponding to the purchase offer, which was midway between a distressed sale and a voluntary sale for the decontaminated land and buildings.

(97) The Commission therefore considers that, by virtue of the presence of an appraisal conducted by an independent expert and a purchase offer, the collateral may be classified as high.

(98) Moreover, Belgium has not been able to provide the Commission with an accounting statement for the company as at 31 August 2009, the date when the loan was granted, due to a computer crash that occurred during the summer of 2009. In the absence of information on the company's financial situation as at 31 August 2009, the Commission has used that at 31 December 2009. On that date, VSL had a loss of EUR 2 million with an initial share capital of EUR 2 million. The company also had significant stock of EUR 3 million and EUR 5,759 million in debt. VSL's Ebitda was negative. Consequently, in the absence of any other information from Belgium, the Commission concludes that VSL was in a difficult financial situation, despite regular contributions from its majority shareholder. The Commission considers that, in the light of the accounting information referred to above, VSL's rating at the time the loan was granted was CCC, in accordance with the Communication from

the Commission on the revision of the method for setting the reference and discount rates (hereinafter 'Communication on reference rates')[(16)].

(99) The Commission notes that the Belgian authorities set the interest rate on the loan granted on 31 August 2009 at 4,7 %. The Communication on reference rates provides for the addition of 400 basis points to the rate of 1,77 %[(17)], which was valid in Belgium at the time the loan was granted for a company with a CCC rating and a high level of collateral, resulting in a rate of 5,77 % (1,77 % + 400 basis points).

(100) The Commission notes that the interest rate on the loan granted on 31 August 2009, set at 4,7 % by the Walloon Region (represented by Sogepa) for a period of 7 years, was below the threshold of 5,77 % set by the Communication and concludes that this involves an element of aid to the benefit of VSL.

(101) The aid corresponds to 1,07 %, i.e. the difference between the two interest rates (5,77 % – 4,7 %), or EUR 16 050 per year.

Measure 6: Capital injection of EUR 1,5 million

(102) The Commission's doubts related to the alleged *pari passu* nature of the measure and, ultimately, to the compliance of this measure with the principle of the market-economy investor due, on the one hand, to the company's economic and financial situation at the time the capital injection took place and, on the other, the very scant nature of the documents produced by the Belgian authorities to justify the validity of this measure.

(103) In their comments, the Belgian authorities consider that the Commission cannot rely on the *ex post* profitability of an investment to classify a measure as State aid. They also consider that, even though the Region was not a shareholder, as a significant creditor it had an interest in supporting VSL's activity (cf. Measure 4).

(104) The Commission notes that the Walloon Region was contributing new cash while CFC was contributing a debt that it held in relation to its own subsidiary. Contrary to the Belgian authorities' claim, the Region's intervention on 17 March 2011 did not take place at the same time as that of the shareholder CFC. The latter's contribution of EUR 5,2 million comprised several advances made between 25 May 2009 and 29 March 2011. Moreover, the Walloon Region and CFC were not in the same situation and not running the same risks. The Walloon Region was not a VSL shareholder prior to this measure. In contrast, CFC was a shareholder in VSL and had an interest in seeing the company recover or, at least, limit its losses. Consequently, the Commission considers that the capital injection cannot be considered *pari passu*.

(105) The fact that the Walloon Region had provided a loan 2 years previously is insufficient to establish that the capital injection was prudent. Moreover, the fact that the Walloon Region had, on the one hand, a debt of an initial amount of EUR 280 000, albeit clearly lower at the time of the capital injection, since

the Belgian authorities pointed out that this debt was repaid by VSL at a rate of EUR 35 000 per year as from 5 October 2008 and, on the other, had granted a loan of EUR 1,5 million in 2009, does not establish the prudence of an additional investment of EUR 1,5 million in a company whose financial situation was continuing to deteriorate (cf. section 5.2.1).

(106) The Commission notes, moreover, that the capital injection was not decided on the basis of a business plan, but on the basis of a simple one-page financial projection. This projection gives no explanation as to how the company intended to recover nor on the remuneration it intended to grant to the provider of the capital, namely the Walloon Region. The 2008-2009 financial year had already demonstrated that the company was in a difficult economic and financial situation (cf. Measure 4). A mere increase in turnover cannot in and of itself justify a capital injection of EUR 1,5 million without taking into account other criteria such as Ebitda or the company's level of indebtedness.

(107) Consequently, the capital injection cannot be considered to be the behaviour of a market-economy investor. Instead, the entire capital injection of EUR 1,5 million must be considered to be aid.

Measure 7: Prior *de minimis* aid

(108) Measure 7 groups together benefits granted to VSL totalling EUR 197 503,04. The Commission takes the view that these must be considered as not meeting all the conditions set out in Article 107(1) of the Treaty and therefore as not constituting aid, following the entry into force of Commission Regulation (EU) No 1407/2013[(18)]. Article 7 provides that the Regulation applies to aid granted before its entry into force if the aid meets all the conditions laid down in the Regulation.

(109) The beneficiary is not a company whose sector of activity falls within the exceptions set out in the first article. In accordance with Article 3(1) of the above Regulation, the Belgian authorities have confirmed that the total amount of the measures granted by the Region did not exceed EUR 200 000 over a period of 3 financial years. The monitoring provided for in Article 6 of the Regulation was conducted by Sogepa. The Commission therefore concludes that the measures in question meet the conditions under the Regulation. Moreover, given their form (grants), the measures in question may be considered as transparent within the meaning of Article 4 of the Regulation. Finally, in contrast with the previous Regulation, the current Regulation does not exclude *de minimis* aid for undertakings in difficulty.

(110) Consequently, the measures in question are considered as not meeting all the conditions under Article 107(1) of the Treaty and do not, therefore, constitute aid.

Measure 8: Decontamination of VSL's buildings in the context of the Cristal Park project and VSL's use of some of SPAQuE's buildings free of charge

(111) The Commission queried whether the sale price of the land and buildings purchased by SPAQuE, EUR 2 040 000, was a market price given the uncertainties regarding the appraisal of the clean-up costs attributable to VSL. The Commission also queried the provision of some of SPAQuE's buildings to VSL free of charge.

(112) The Commission has noted the following sequence of events:

— April 2011: Antea Group produced a document entitled '*Investigations des caractérisations de mise en priorité, dossier technique, cahier technique n°6: interprétation des résultats*' which describes and locates the soil pollution in detail.

— December 2011: drafting of the 2011 note with the aim of 'finding solutions to the clean-up of the plots of land and some buildings currently owned by Val Saint-Lambert (VSL SA)'. The clean-up and decontamination works were evaluated at +/– EUR 7,5 million.

— August 2012: report by the approved expert, Geolys, dated 23 August 2012, consisting of a one-page letter stating the following: 'This evaluation is based solely on Antea's preliminary study (March 2011) and on the following assumptions: …'. The clean-up costs were assessed at EUR 219 740.

— December 2012: purchase by SPAQuE of the buildings for EUR 2 040 000 (valued by independent consultants Cushman & Wakefield) minus the decontamination costs estimated at EUR 220 000, i.e. EUR 1 820 000. At the same time, SPAQuE granted the town of Seraing, by means of an agreement already drafted but not yet signed, a purchase option on the same buildings for EUR 2 090 000. Seraing undertook, in a second agreement, already drafted but not yet signed, to transfer this purchase option to SPECI.

— January 2014: the Belgian authorities informed the Commission that the decontamination and clean-up works had not yet commenced and that SPAQuE was still working on completing the categorisation study of the site's pollution.

(113) The Commission is therefore faced with the existence of two documents that give two differing evaluations of the decontamination costs.

(114) The Belgian authorities gave the following reasons for disregarding the note of December 2011. They consider, first of all, that the note does not relate to the clean-up and decontamination costs that would be necessary to secure the site for its current industrial use, but rather to the development of a commercial theme village focusing on household goods, decoration and leisure in line with a planned use of the site. According to them, the note is merely an internal note that was not produced by an authorised expert and it relates partly to plots of land that were not sold to SPAQuE. The Belgian authorities clarify, finally, that the note is based on a scoping study that consisted solely in verifying the possible presence of pollution and providing a description of it. The note also specifies that the categorisation study[19] was ongoing.

(115) The Belgian authorities further maintain that the buildings mentioned in the note of December 2011 are not identifiable and then explain that their total area of +/– 67 000 m^2 is greater than the total area (50 299 m^2) of the buildings noted in the contract of sale dated 13 December 2012. According to them, this difference of 17 000 m^2 justifies lower clean-up costs. The Belgian authorities also pointed out that the core of the former industrial site, namely the buildings numbered 18, 19, 22 and 22A, were excluded from the sale to SPAQuE and therefore remain the property of VSL. They further claim that these are the buildings that housed the polluting industrial activity.

(116) The Commission notes, first, that the sale price was estimated by an independent firm of consultants in May 2012. This estimate gives a sale price of EUR 2 090 000. The report also states that the decontamination costs were at that time being assessed by a specialist consultant commissioned by the current site owner. The decontamination costs were therefore also estimated by an independent specialist firm, Geolys.

(117) In their reply dated 23 May 2014, the Belgian authorities confirmed that the lands and buildings evaluated in the Geolys report were indeed those included in the sale of 13 December 2012. Moreover, the Belgian authorities pointed out that, in the case of historical pollution and on the basis of the designated use of the polluted land and buildings in local development plans, the applicable Walloon legislation limits the extent of the obligations of an owner of a polluted plot of land or building. Only the costs of decontaminating the site to bring it into line with its designated use at the time of the sale, i.e. industrial use, must therefore be taken into account and deducted from the value of the land and buildings. The Commission notes that Geolys' letter explicitly states that the costs have been estimated for an industrial designation of the site.

(118) In the light of the above, the Commission concludes that the price at which VSL's buildings were sold to SPAQuE (corresponding to the sale price evaluated by an expert minus the decontamination costs estimated by Geolys) is a market price and does not involve elements of aid.

(119) The Belgian authorities justify SPAQuE's provision of certain buildings free of charge by noting VSL's commitment to work with SPAQuE to provide all useful and necessary information regarding the renovation and decontamination works to be conducted on the site.

(120) First, the Commission notes that the Belgian authorities stated in their comments that the buildings belonged to SPECI. However, the agreement to provide the buildings free of charge was signed between SPAQuE and VSL; SPECI was not a party to this agreement. Moreover, the Belgian authorities have not provided proof that SPECI was the owner of these buildings.

(121) Furthermore, the Commission notes that this justification is not backed up by any evidence assessing whether or not the amount of rent which SPAQuE voluntarily waived was equivalent to VSL's commitment. The Belgian authorities have, in fact, provided no details on the methods or effectiveness of the implementation of this commitment.

(122) Consequently, the Commission considers that the free provision of the plots of land referred to in the agreement for the temporary provision of a part of the Val Saint-Lambert crystal works site signed on 11 December 2012 did confer an advantage on VSL.

(123) The amount of aid corresponds to the amount of rent that VSL would have had to pay under market rental conditions. This amount will have to be calculated on the basis of the cadastral income (index-linked) established by the competent Belgian authorities (*Administration du Cadastre, de l'Enregistrement et des Domaines* — ACED) for each building rented and for the duration of the rental period. In fact, the cadastral income (index-linked) is determined in such a way as to reflect the average net income that a property would provide its owner in a year, taking account of the rental market, and the Commission therefore considers it a reasonable basis on which to estimate the rental value of the assets in question. In the context of the recovery procedure, the Belgian authorities may, on the basis of an opinion of an independent and authorised expert to be approved by the Commission, provide proof that corrections to this amount are necessary in order to take into account the specific features of the assets in question.

5.1.5. *Effect on competition and trade between Member States*

(124) With regard to conditions relating to the effect on competition and trade between Member States, the Commission observes that the European Union has numerous producers of crystal and crystal items, and that these items are used as functional accessories or, more usually, as decorative or luxury objects. According to the information provided by Belgium, the following companies, for example, have a range of products that is at least in part similar to that of VSL: Baccarat (France), Saint-Louis (France), Lalique (France), Daum (France), Arc International (France), Montbronn (France) and the Bohemian Glassworks (Czech Republic). The Commission notes that the goods produced by these companies and other market players are traded between Member States.

(125) In relation more specifically to Measure 3 (guarantee of EUR 150 000) and Measure 5 (loan of EUR 1,5 million), even though the amount of aid cannot be calculated precisely due to the absence of certain information, it is below the threshold for *de minimis* aid. However, the Commission considers that this measure cannot be classified as *de minimis* aid and that it does affect competition and trade between Member States. The measures granted in 2008 and 2009 cannot be classified as *de minimis* aid because, under the previous

Regulation in force until 31 December 2013[20], this type of aid could not be granted to firms in difficulty. CVSL was in bankruptcy proceedings at the time the guarantee was granted. Moreover, the new Regulation that came into effect on 1 January 2014[21], like the previous Regulation applies only to aid measures which are transparent. The guarantee in question cannot, however, be considered as such. Article 4(6)(a) of the Regulation states that: 'Aid comprised in guarantees shall be treated as transparent *de minimis* aid if the beneficiary is not subject to collective insolvency proceedings …'. As already stated above, CVSL was in bankruptcy proceedings at the time the guarantee was granted. With regard to the loan, Article 4(3)(a) and (b) states that 'Aid comprised in loans shall be considered as transparent de minimis aid if the beneficiary is not subject to collective insolvency proceedings … and if the loan is secured by collateral covering at least 50 % of the loan and the loan amounts to either EUR 1 000 000 … over five years or EUR 500 000 … over 10 years'. The latter condition was not met by the loan in this case.

(126) Moreover, the Commission considers that the notion of State aid does not require the distortion of competition or the effect on trade to be significant or actual. The fact that the amount of aid is low or that the beneficiary company is of modest size does not, in itself, rule out a distortion of competition or a threat of distortion of competition provided, however, that the probability of such distortion is not purely hypothetical. In this case, given the nature of the market described in recital 124 above, this probability is not hypothetical. According to the Belgian authorities, there are some 40 active crystal works in and outside Europe. Val Saint-Lambert is active on the crystal market in the area of tableware or decoration. From the moment a consumer has a choice between several similar products, a VSL decanter or a decanter from another factory for example, of different brands, any aid received by one of the producers present in this segment leads to a distortion of competition among the others.

(127) The Commission concludes that all the measures under investigation, with the exception of Measure 7, constitute aid that is likely to affect competition and trade between Member States.

Conclusion with regard to the presence of aid within the meaning of Article 107(1) of the TFEU

(128) The Commission concludes that all the measures under investigation, with the exception of Measure 7 and the sale of VSL's buildings to SPAQuE (part of Measure 8), constitute aid within the meaning of Article 107(1) of the TFEU.

5.2. **Compatibility of the aid with the internal market**

(129) The prohibition on State aid laid down in Article 107(1) TFEU is neither absolute nor unconditional. In particular, paragraphs 2 and 3 of Article 107 of the TFEU constitute legal bases enabling some aid measures to be considered compatible with the internal market. In this case, the measures

under investigation must be analysed to establish whether they could be considered compatible on the basis of Article 107(3) TFEU, in application of the criteria indicated in the Rescue and Restructuring Guidelines. To this end, the periods during which CVSL and VSL can be considered undertakings in difficulty should first be determined.

(130) Moreover, for Measure 3, granted in September 2008, it is also necessary to establish whether there was economic continuity between the bankrupt CVSL and the activities sold to the buyers, who established VSL, in order to ascertain whether VSL benefited from advantages related to the granting of this measure. The conclusions of this analysis have consequences for the analysis of the compatibility of Measures 3 and 1.

5.2.1. *Eligibility of VSL and CVSL under the Guidelines*

(131) The periods during which CVSL and VSL could be considered undertakings in difficulty must be determined.

(132) In their comments, the Belgian authorities do not contest that CVSL was an undertaking in difficulty when the guarantee was granted in September 2008 (Measure 3) but, according to them, this intervention benefited CVSL and not VSL.

(133) Moreover, they consider that VSL can be classified as an undertaking in difficulty only after 8 February 2012, the date on which the request for judicial reorganisation was filed. Prior to this, VSL could not be classified as an undertaking in difficulty, according to them, because it was a newly created company and was benefiting from the unconditional support of its majority shareholder, namely CFC, in accordance with points 10 and 11 of the Rescue and Restructuring Guidelines and the Commission's decision-making practice.

(134) The Commission notes that at the time that Measure 3 was granted, CVSL had been bankrupt since the judgment on 11 August 2008.

(135) With regard to Measures 5, 6 and 8, the Belgian authorities refer to the Saab decision[22] to justify that VSL was not in difficulty. In particular, they produced a schedule of accounts listing the financial flows between VSL and its majority shareholder CFC in order to demonstrate that CFC's behaviour can, in fact, be likened to that of General Motors, which continued to support its subsidiary Saab with capital injections and liquidity in order to cover its losses, leading the Commission to rule out the possibility that Saab was an undertaking in difficulty within the meaning of the Guidelines (cf. recital 59 of the Decision).

(136) Since 25 May 2009, in addition to the capital transferred at the time of the takeover, CFC has injected more than EUR 8 million into the company, demonstrating that VSL could not be considered — in the initial period following the liquidation of CVSL's assets — an undertaking in difficulty on

the basis of points 12 and 13 of the Rescue and Restructuring Guidelines. In fact, during this period, VSL's majority shareholder was able to support it through regular contributions, thus demonstrating that VSL's difficulties could be covered by its majority shareholder. Consequently, from January 2009 to February 2012, the Commission considers that VSL did not meet the criteria of an undertaking in difficulty within the meaning of the Guidelines.

(137) However, VSL had been undergoing a further judicial reorganisation since February 2012. Moreover, the Belgian authorities demonstrated that CFC was no longer able to support its subsidiary as it had done until that point. The opening decision noted that CFC's liquidity was EUR 1,26 million and, consequently, granting VSL an equivalent amount (the minimum necessary for its rescue) would have taken up nearly all of its funds. Consequently, VSL must be considered an undertaking in difficulty within the meaning of point 10(c) of the Rescue and Restructuring Guidelines from the time that the rescue aid (Measure 1) was granted in April 2012.

(138) To sum up, the Commission considers that CVSL was in difficulty from 11 August 2008 (when it was declared bankrupt) until the end of November 2008 (when VSL was set up). VSL had to be considered an undertaking in difficulty from 9 February 2012 (date of the judicial reorganisation procedure) until the judgment on 14 October 2013 (date bankruptcy was declared).

(139) Consequently, CSL and VSL were enterprises in difficulty when Measures 1 and 3 were granted. An analysis of their compatibility must therefore be conducted on the basis of the Guidelines.

5.2.2. *Compatibility of the aid (Measures 1 and 3)*

Measure 1: rescue aid on 3 April 2012

(140) Belgium considers that this aid is compatible on the basis of the Rescue and Restructuring Guidelines. The Commission considers, however, that the ‘one time, last time’ principle laid down in points 72 et seq. of the Guidelines has not been complied with. VSL received incompatible rescue aid in September 2008 (cf. recital 141). It could not, therefore, receive further rescue aid before 2018. Moreover, the Belgian authorities confirmed that the EUR 1 million loan was covered by a statement of claim to the insolvency administrators on 5 November 2013, to the benefit of Sogepa. This claim was recorded in VSL's liabilities and has not been repaid to date. Consequently, the loan was not repaid within 6 months of its being granted, in accordance with point 25(a) of the Guidelines. The Commission therefore considers that the rescue aid dated 3 April 2012, which corresponds to the amount of the loan, i.e. EUR 1 million, is incompatible with the common market.

Measure 3: the guarantee of EUR 150 000

(141) The Commission considered in section 5.2.1 that CVSL was an undertaking in difficulty at the time the guarantee was granted. The element of aid resulting from the free granting of the guarantee could thus be declared compatible only

if it meets the conditions set out in the Rescue and Restructuring Guidelines. And yet, as has been seen, the guarantee was granted without remuneration. Point 25(a) of the Guidelines states that liquidity support in the form of loan guarantees must be granted at 'an interest rate at least comparable to those observed for loans to healthy firms …'. Moreover, the Belgian authorities, despite a specific request for information on this point, have not provided details on whether the obligation to end the guarantee after 6 months (point 25(a) of the Guidelines) was met. In the light of the above, the Commission considers that the aid resulting from the free granting of the guarantee cannot be considered rescue aid compatible with the common market, nor can it be declared compatible on other bases.

(142) Consequently, Measure 3 is incompatible rescue aid granted in 2008 prior to CVSL's takeover and it is therefore necessary to establish whether there was economic continuity between the bankrupt CVSL and the activities transferred to the buyers who established VSL, in order to determine whether VSL benefited from advantages relating to the granting of this measure.

5.2.3. *Assessment of the presence of economic continuity between CVSL and VSL*

(143) In the opening decision, the Commission queried whether or not economic continuity had been established between CVSL and VSL, in other words, whether the advantages resulting from the granting of the guarantee of EUR 150 000 in September 2008 had been passed on to the buyers of CVSL who established VSL. The conclusions of this analysis depend both on identifying the company which would have to repay any incompatible unlawful aid, and on an analysis of the compatibility of Measure 1, in particular with regard to the 'one time, last time' principle.

(144) In this regard, the Belgian authorities consider that this measure benefited CVSL and not VSL and that there was a break in economic continuity between CVSL and the buyers.

(145) According to case law, the recovery obligation may be extended to a new company to which the beneficiary company has transferred its assets where that transfer permits the conclusion that there is an economic continuity between the two companies[(23)]. Extension of the repayment obligation to another entity cannot be ruled out, provided it is established that this entity is effectively benefiting from the aid in question, due to an economic continuity between the two.

(146) According to the judgment of the Court of Justice of 8 May 2003 in Joined Cases C-328/99 and C-399/00 *Italy* v *Commission*[(24)], the economic continuity between the original company and new structures is assessed by means of a number of factors: in particular the purpose of the sale (assets and liabilities, continuity of the workforce, bundled assets), the transfer price, the identity of the shareholders or owners of the new company, the moment at which the transfer was carried out (after the start of the investigation, the initiation of the

formal investigation procedure or the final decision) and, lastly, the economic logic of the transaction.

Assessment of the criterion of the purpose of the sale (assets and liabilities, continuity of the workforce, bundled assets)

(147) By way of introduction, the Belgian authorities pointed out that CVSL's assets had been distributed among several companies (the parent company VSLI, VSLI SARL in France and CVSL). To facilitate the takeover, on 23 October 2008 the insolvency administrators concluded a transaction agreement to transfer assets shared between these different companies into the hands of the failed company.

(148) According to the Memorandum of Understanding of 1 October 2008 and the takeover agreement of 31 August 2009, VSL took over all the assets belonging to CVSL, excluding current assets: the buildings in which CVSL's workshops were housed and the storage areas, the land on which they were built, CVSL's equipment and stock-in-trade i.e. production tools, moulds, patents and possible sub-brands that belonged to CVSL on that date, orders under way, and stock, including that sold to Val Saint-Lambert International SARL, a company incorporated under French law, which the insolvency administrators had undertaken to make available to the buyers.

(149) Part of the assets that belonged to VSLI was also sold, i.e. the trade marks, designs and models and other intellectual property (the items referred to in the agreement signed on 5 October 2005 and including plans, moulds, designs, sketches, …, the built and non-built immovable assets owned by VSLI at Seraing, stocks of VSL products, the business premises at Seraing (showroom), the stocks at sales outlets in Seraing and Brussels (Sablon).

(150) Full ownership of the leased production tools (cutting machine, furnace and furnace nose) was also transferred to VSL.

(151) Releasing CVSL from all responsibility, VSL undertook to continue all the work and employment contracts signed by VSL that were current on 30 September 2008. VSL also undertook to continue the individual, collective and social agreements that had been concluded, merely reserving the right to jointly renegotiate some of their terms should the new circumstances so require.

(152) Finally, VSL also took over a liability of EUR 280 000 resulting from CFV's sale of CVSL's intellectual rights. In accordance with the agreement of 29 January 2009 between Compagnie financière du Val SL and VSL, VSL replaced Interagora SA and took over the commitments it had made to CFV in an agreement dated 5 October 2005. Through this agreement, CFV had transferred to Interagora SA all the trade marks, designs and models relating directly or indirectly to CVSL. EUR 280 000 of the agreed price remained unpaid.

(153) The takeover of CVSL's assets was approved by Liège Commercial Court on 20 October 2009.

(154) In the light of these facts, the Commission has come to the following conclusion with regard to the purpose of the sale: the takeover related to almost all of CVSL's assets (including orders commenced), all work and employment contracts signed by the bankrupt company and in effect on 30 September 2008, and the use of trade marks and intellectual rights.

(155) Consequently, the Commission notes that the scope of the activities taken over was the same as that of CVSL and that the scope of the takeover went even beyond CVSL to include the assets of VSLI which were necessary to continue crystal production.

Assessment of the sale price

(156) In order to establish whether there was economic continuity following the sale of CVSL's assets, it must also be considered whether the sale was conducted at a market price. This condition applies both to tangible and intangible assets.

(157) The Belgian authorities pointed out that, under Belgian bankruptcy laws, the determining factor when liquidating assets is that of the creditors' interest. Article 75(3) of the Bankruptcy Law enables the creditors or the bankrupt party to oppose the disposal of certain assets if they feel that the planned disposal might harm them. The Belgian authorities pointed out that the granting of the public guarantee of EUR 150 000 was in fact motivated by a desire to maintain continuity of activity and make the most of the steps taken to sell assets.

(158) The Commission notes that the sale of CVSL's assets took place via an open call for bids, managed by the insolvency administrators. Thirty-six bids were received by the insolvency administrators, who selected 12 at the end of an initial phase. A data room of information on CVSL was organised. The publicity apparently focused on all the assets, without any bundled assets having been defined in advance.

(159) The Commission notes that this procedure would *a priori* enable the sale price of each of CVSL's assets to be maximised.

(160) However, two factors lead the Commission to consider that this procedure alone was insufficient to guarantee that the price offered by the buyers for the assets was the market price.

(161) The sale of CVSL's assets was conditional on taking over all the work contracts. This shows that the sale was not unconditional and this obligation may have lowered the sale price.

(162) Finally, the exclusive licence for use of the trade marks was also subject to conditions that would not have been required by a private operator. In

exchange, the Walloon Region required compensation from VSL, as recorded in the novation agreement dated 29 January 2009 between the Walloon Region (represented by CFV) and VSL: 'This licence for use may be cancelled at any moment, automatically and without notice by the Walloon Region should VSL (or its successors) be unable to demonstrate production on the Val Saint-Lambert site at Seraing of high added-value crystal products now in activity at a minimum 60 % of the full-time equivalent employment, excluding temporary lay-offs, existing on the day of CVSL's bankruptcy …'. The Commission notes that, in return for granting the exclusive licence, the Walloon Region imposed on VSL an obligation to maintain production at the Seraing site and to maintain a previously determined level of employment. These political conditions may have lowered the sale price and discouraged other potential purchasers, thus affecting competition under the call for bids, with the result that the best financial bid was not in line with the actual market value[(25)].

(163) Given these facts, the Commission considers that the criterion of the sale price is not met.

Assessment of the criterion of the transaction's economic logic

(164) The criterion of the transaction's *economic* logic is intended to verify whether the buyer of the assets is using the transferred assets in the same way as the vendor, in order to continue the same economic activity.

(165) The Belgian authorities consider that the logic followed by VSL was radically different from that of its predecessors, in particular because it was based on the Cristal Park property development project when it took over the crystal works' activities.

(166) In this case, the Commission observes that the Belgian authorities have not demonstrated the existence of a direct relationship between CVSL's takeover and the Cristal Park project since October 2008. The oldest of the documents relating to the Cristal Park project sent by the Belgian authorities dates back to December 2011.

(167) In any event, the Commission notes that the buyers bought the trade mark in order to continue to use it along with all the assets and means of production. The object of the company referred to in VSL's act of incorporation dated 20 November 2008 is, in fact, very similar to that of CVSL. VSL's object was indeed to continue the activity of the CVSL crystal works using the same human and production resources. Moreover, the guarantee itself was granted with a view to ensuring the continuity of the activity.

(168) Consequently, for the reasons noted above, the Commission concludes that there was economic continuity between CVSL and VSL. The takeover of all the means of production (at a price subject to conditions, which did not correspond to the actual market value), of employment contracts and of the exclusive and unlimited use of trade marks with a view to continuing

to produce crystal items forms a decisive factor in establishing economic continuity. The advantage resulting from the granting of the guarantee to CVLS when it was bankrupt continued after the takeover and VSL retained the benefit of this advantage.

5.2.4. *Compatibility of Measures 4 (sale and use of the trade marks), 5 (loan of EUR 1,5 million), 6 (capital injection of EUR 1,5 million) and 8 (SPAQuE's provision of certain buildings to VSL)*

(169) Belgium provided no justification for the compatibility of these measures in its comments on the opening decision and the Commission has no information with which to conclude that any of the exceptions laid down in Article 107(2) and (3) might apply. Consequently, the Commission considers that these aid measures are incompatible with the common market.

5.3. **Recovery**

(170) The Commission points out that, in in accordance with Article 14(1) of Council Regulation (EC) No 659/1999[(26)], all unlawful aid that is incompatible with the internal market must be recovered from the beneficiary.

(171) In this case, it is clear from the above considerations that the following measures involve aid, that this aid is unlawful and incompatible and, in so far as the aid was made available to VSL, it must be recovered:

Measure 1: soft loan of EUR 1 million granted to VSL on 3 April 2012 by the Walloon Region, represented by the Société Wallonne de Gestion et de Participations (hereinafter 'Sogepa').

The entire loan constitutes aid. EUR 400 000 was granted the same day that the agreement was concluded. The remaining EUR 600 000 was granted at a later date not specified by the Belgian authorities.

Measure 2: restructuring aid consisting of an extension of the EUR 1 million loan.

This measure was not implemented and so recovery is not necessary.

Measure 3: guarantee of EUR 150 000 granted by Sogepa on 24 September 2008 to CVSL's insolvency administrators.

This guarantee involves aid because it was not remunerated at the market price. The aid element must be calculated using the method set out in this Decision.

Measure 4: sale and use of the Val Saint-Lambert trade marks agreed on 29 January 2009 between CFV and VSL.

This sale of the trade marks did not take place and so recovery is not necessary. The element of aid concerning the use of the trade mark must be calculated in accordance with generally used and accepted methods of managing intellectual property assets.

Measure 5: loan of EUR 1,5 million granted by Sogepa to VSL on 31 August 2009.

This loan involves aid to VSL, corresponding to the difference between the market rate and the rate at which the loan was granted, i.e. 1,07 % (5,77 % – 4,7 %), or EUR 16 050 per year. This aid was provided unlawfully and must therefore be repaid.

Measure 6: capital injection of EUR 1,5 million by the Walloon Region into VSL decided on 17 March 2011.

The entire capital injection constitutes aid since it cannot be deemed equivalent to the behaviour of a private investor. This aid was provided unlawfully and must therefore be repaid.

Measure 8: relating to the provision of part of the 'Cristalleries du Val Saint-Lambert' site free of charge

The agreement for the temporary provision of a part of the Val Saint-Lambert crystalworks site, concluded on 11 December 2012 between SPAQuE and VSL, confers an advantage on VSL that consists of the amount of rental income that SPAQuE willingly waived. The precise amount of this aid must be calculated in accordance with recital 123.

(172) For the purposes of recovery, the Belgian authorities must also add to the amount of the aid the recovery interest due from the date on which the aid in question was first made available to the company until the aid is recovered, in accordance with Chapter V of Commission Regulation (EC) No 794/2004[27].

6. CONCLUSION

(173) The Commission finds that Belgium unlawfully implemented a set of measures in breach of Article 108(3) of the Treaty on the Functioning of the European Union. These measure are the following: the rescue aid of EUR 1 million (Measure 1), the guarantee of EUR 150 000 (Measure 3), the sale and use of the Val Saint-Lambert trade marks (Measure 4), the loan of EUR 1,5 million (Measure 5), the capital injection of EUR 1,5 million (Measure 6) and SPAQuE's provision of certain buildings to VSL free of charge (part of Measure 8).

(174) By letter dated 18 June 2014, the Belgian authorities authorised the Commission to adopt and notify this Decision in French only,

HAS ADOPTED THIS DECISION:

Article 1

The following measures: the rescue aid of EUR 1 million (Measure 1), the guarantee of EUR 150 000 (Measure 3), the sale and use of the Val Saint-Lambert trade marks (Measure 4), the loan of EUR 1,5 million (Measure 5), the capital injection of EUR 1,5 million (Measure 6) and SPAQuE's provision of certain buildings to VSL free of charge (a part of Measure 8) involve elements of aid that have been unlawfully implemented by

Belgium, in breach of Article 108(3) of the Treaty on the Functioning of the European Union, and are incompatible with the internal market.

In accordance with Article 8(2) of Regulation (EC) No 659/1999, Belgium withdrew its notification concerning Measure 2 (restructuring aid) following the decision to initiate the formal investigation procedure.

Article 2

1 Belgium shall recover the aid referred to in Article 1 from the beneficiary.

2 The sums to be recovered shall bear interest from the date on which they were made available to the beneficiary until the date of their actual recovery.

3 The interest shall be calculated on a compound basis in accordance with Chapter V of Regulation (EC) No 794/2004 and Commission Regulation (EC) No 271/2008[(28)] amending Regulation (EC) No 794/2004.

Article 3

1 The recovery of the aid referred to Article 1 shall be immediate and effective.

2 Belgium shall ensure that this Decision is implemented within 4 months following the date of its notification.

Article 4

1 Within 2 months following notification of this Decision, Belgium shall submit the following information to the Commission:

a the total amount (principal and interest) to be recovered from the beneficiary;

b a detailed description of the measures already taken and planned to comply with this Decision;

c the documents proving that the beneficiary has been ordered to repay the aid.

2 Belgium shall keep the Commission informed of the progress of the national measures taken to implement this Decision until the aid referred to in Article 1 has been fully recovered. At the Commission's request, it shall immediately submit all information on the measures already adopted and planned to comply with this Decision. It shall also provide detailed information concerning the amounts of aid and interest already recovered from the beneficiary.

Article 5

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 31 July 2014.

For the Commission

Joaquín ALMUNIA

Vice-President

ANNEX

Information on the amounts of aid received, to be recovered and already recovered

(in millions of national currency)

Beneficiary	**Total amount of aid received under the scheme**	**Total amount of aid to be recovered(Principal)**	**Total amount already repaid**	
			Principal	**Interest**

(**1**) State aid SA.34791 20../C (ex 2012/NN) — Belgium — Rescue aid for Val Saint-Lambert— and State aid SA.35528 20../C (ex 2012/N) — Belgium — Restructuring aid for Val Saint-Lambert — Invitation to submit comments pursuant to Article 108(2) of the Treaty on the Functioning of the European Union (OJ C 213, 26.7.2013, p. 38).

(**2**) Cf. footnote 1.

(**3**) Business secret.

(**4**) A judicial reorganisation is aimed at maintaining the continuity of all or part of an enterprise in difficulty or its activities, under the control of a judge. It preceded the declaration of bankruptcy on 14 October 2013.

(**5**) Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (OJ L 379, 28.12.2006, p. 5).

(**6**) Cf. footnote 4.

(**7**) OJ C 244, 1.10.2004, p. 2.

(**8**) Decision of 8 February 2010, N541/2009 — Sweden — State guarantee in favour of Saab Automobile AB.

(**9**) See judgment of 16 May 2002, *France* v *Commission*, C-482/99, EU:C:2002:294, paragraph 38.

(**10**) By decision of 27 April 2012 of the Minister responsible for Land Planning.

(**11**) Case C-482/99 *France* v *Commission*, cited above.

(**12**) OJ C 155, 20.6.2008, p. 10.

(**13**) http://ec.europa.eu/competition/state_aid/legislation/base_rates_eu27_en.pdf.

(**14**) Communication from the Commission on the revision of the method for setting the reference and discount rates, (OJ C 14, 19.1.2008, p. 6).

(**15**) Cf. paragraphs 21 to 23.

(**16**) OJ C 14, 19.1.2008, p. 6.

(**17**) http://ec.europa.eu/competition/state_aid/legislation/reference_rates.html

(**18**) Commission Regulation (EU) 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1).

(**19**) According to the Belgian authorities, the categorisation study describes and locates the soil pollution in detail in order to enable the administration to rule on the need for and methods of clean-up.

(**20**) Regulation (EC) No 1998/2006.

(**21**) Regulation (EU) No 1407/2013.

(**22**) State aid N 541/09 — Sweden — State guarantee in favour of Saab Automobile AB, 8 February 2010.

(**23**) Judgment of 28 March 2012, *Ryanair Ltd* v *European Commission*, T-123/09, EU:T:2012:164, paragraph 155.

(**24**) ECR I-4035.

(**25**) See, by analogy, Commission Decision 2008/717/EC of 27 February 2008 on State aid C-46/07 (ex NN 59/07) implemented by Romania for Automobile Craiova (formerly Daewoo Romania) (OJ L 239, 6.9.2008, p. 12).

(**26**) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the treaty on the functioning of the European Union (OJ L 83, 27.3.1999, p. 1).

(**27**) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC)No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1).

(**28**) Commission Regulation (EC) No 271/2008 of 30 January 2008 amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 82, 25.3.2008, p. 1).

Changes to legislation:
There are currently no known outstanding effects for the Commission Decision (EU) 2015/1825.