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Subject: State Aid SA.102784 (2022/N) – France
TCF: Exceptional scheme to cover the additional animal feed costs of farms and fish farms

Excellency,

1. PROCEDURE

- (1) By electronic notification of 27 April 2022, France notified aid in the form of limited amounts of aid (“*TCF: Dispositif exceptionnel de prise en charge des surcoûts d’alimentation animale des exploitations agricoles et des exploitations piscicoles d’élevage*”, the “measure”) under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the “Temporary Crisis Framework”)¹.
- (2) France exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

¹ Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 131 I, 24.3.2022, p.1).

² 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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2. DESCRIPTION OF THE MEASURE

- (3) France considers that the Russian aggression against Ukraine, the sanctions imposed by the Union and its international partners and the counter-measures taken by Russia ('the current crisis') so far affects the real economy. The current crisis created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods, including in the agri-food sector. France reports that the agricultural raw materials, and in particular cereals and plant proteins, have seen their prices rise sharply. This context has prevailed since March 2021, but the Russian aggression against Ukraine and its economic consequences have marked a further acceleration in the increase in the prices of these commodities³. This situation has a strong impact on French breeders and equestrian centres with regard to animal feed. The tensions on the markets for animal feed raw materials will last for at least several months. The question of compensating absent volumes of cereals from Ukraine and Russia is at the heart of concerns for importers and exporters alike. In addition, the prices of energy and mineral raw materials soar, with serious concerns about the availability and price of gas and fertilisers. Thus, the measure aims to remedy the liquidity shortage faced by undertakings in the sector concerned that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian aggression against Ukraine, the sanctions imposed by the Union or by its international partners, as well as by the economic counter measures taken by Russia.
- (4) France confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 1 and 2.1 of the Temporary Crisis Framework.

2.1. The nature and form of aid

- (6) The measure provides aid in the form of direct grants.

2.2. Legal basis

- (7) The legal basis for the measure is the draft of the Decision of the Director of FranceAgriMer on the modalities of implementation of the exceptional system for covering the additional animal feed costs of farms and fish farms affected by the

³ Between March 2021 and March 2022, cereal prices rose from EUR 250/tonne to EUR 370/tonne, i.e. a 48% increase over one year (source: International Grains Council). In cereals, all Ukrainian ports are at a standstill. The uncertainty surrounding the export of seeds, meal and oil from the Black Sea (closure of ports and crushing plants, risks on maritime routes and the effects of sanctions) is driving up prices (+47% for sunflower over the period from 23 February 2022 to 8 March 2022, i.e. in less than 2 weeks). Thus the main raw materials for animal feed increased very sharply. Consequently, the increase in the cost of animal feed between March 2021 and March 2022 reached 51%.

increase in their animal feed costs caused by the consequences of the Russo-Ukrainian conflict⁴.

2.3. Administration of the measure

- (8) The public agency FranceAgriMer⁵ is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 400 000 000.
- (10) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 31 December 2022.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are small and medium-sized enterprises⁶ active in the primary agricultural production, fish farming (continental and marine), and the equestrian centres affiliated to the MSA (Agricultural Social Mutual Fund) affected by the current crisis⁷. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.
- (12) The beneficiaries must fulfil the following two criteria:
- (a) their animal feed costs amount to at least EUR 3 000 over the period from 16 March 2021 to 15 July 2021 (“the reference period”) inclusive⁸, certified by a trusted third party (accountant, management centre, etc.);
 - (b) they have a rate of dependency (share of food purchases in operating costs) on animal feed of at least 10%, certified by a trusted third party. Three categories of beneficiaries are defined according to their rate of dependence:
 - category 1: from 10% (included) to 30% (excluded) –estimated number of beneficiaries: approximately 76 000;

⁴ *Décision de la directrice générale de FranceAgriMer relative aux modalités de mise en œuvre du dispositif exceptionnel de prise en charge des surcoût d'alimentation animale des exploitations agricoles et des exploitations piscicoles d'élevage touchées par la hausse de leurs charges en alimentation animale engendrée par les conséquences du conflit Russo-Ukrainien.*

⁵ *Établissement national des produits de l'agriculture et de la mer.*

⁶ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1) (“GBER”).

⁷ The French authorities submit that equestrian centres that are affiliated to the MSA fulfil the criteria to be considered as agricultural holdings (farms).

⁸ Some particular cases can be taken into account: i) the amount corresponding to the *pro rata temporis* of the last fiscal year ending no later than 28 February 2022, in the absence of data for the reference period; ii) the same period in 2020, if the beneficiary was affected by a case of force majeure having an effect on animal feed loads during the reference period; iii) for a new installation without reference data for 2021, the pro rata (4/12ths) of the amount indicated in the business plan (PE).

- category 2: from 30% (included) to 50% (excluded) –estimated number of beneficiaries: approximately 14 000;
- category 3: 50% and more – estimated number of beneficiaries: around 8 000.

Breeders with no direct feedstock (breeding activity entirely carried out under an integration contract⁹) are excluded from the measure.

- (13) France confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the Union, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the Union; or (iii) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions.
- (14) France confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the Union or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations¹⁰. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

2.6. Sectoral and regional scope of the measure

- (15) The measure is open to the agricultural and fishery sectors, specifically to the farms and fish farms. The financial sector is excluded. It applies to the whole territory of metropolitan France except Corsica.

2.7. Basic elements of the measure

- (16) The aid under the measure is granted to farms and fish farms affected by the crisis since the Russian military aggression against Ukraine has caused an increase in their operating costs. The objective of this aid is to remedy the serious disruption of the economy caused by the increase in the price of electricity, animal feed and fuel, with a strong impact on farms and fish farms, with large losses of income and putting their economic viability at serious risk. Support for these undertakings is the only way to maintain their activity and, therefore, employment and the function they perform for the population of the Union. The French authorities confirm that the aid will be granted only to undertakings affected by the crisis in compensation for the increase in costs caused by the increase in the price of animal feed, derived from the situation created by the Russian aggression against Ukraine. In fact, the French authorities indicate that the aid has been designed to specifically and exclusively target undertakings strongly affected by the Russian aggression against Ukraine and/or the sanctions imposed or the economic

⁹ Integration contracts are the contractual relationships that some breeders have with undertakings located upstream (feed, fertiliser, etc.) and/or downstream (processing, sale, etc.) of their production. The integrators provide the animal feed, take them back when they are fattened and pay the breeder according to the weight acquired by the animals and the feed consumed.

¹⁰ For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

counter-measures taken in the continuity of this event. Thus, the eligible costs correspond to the additional costs borne by the undertaking concerned and resulting from a rise in the price of animal feed which the French authorities consider linked to the current crisis. In addition, only undertakings demonstrating a dependency rate of at least 10% on animal feed in relation to their overall costs are eligible.

- (17) The amount of the aid under the measure for the categories of beneficiaries listed in recital (12)(b), will be equal to:
- (a) for category 1: EUR 1000;
 - (b) for category 2: 40% of 40% of the amount resulting of the feed costs during the reference period, with a minimum of EUR 1 000;
 - (c) for category 3: 60% of 40% of the amount resulting of the feed costs during the reference period, with a minimum of EUR 1 000.
- (18) However, the overall nominal value of the direct grants will not exceed EUR 35 000 per beneficiary; all figures are gross, that is, before any deduction of tax or other charges.
- (19) France confirms that aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market. The amount of aid will be based on the increase of feed prices used as input for the farms' and fish farms' operations. The French authorities underline that the aid amount is modulated on the basis of the rate of dependency of each beneficiary on animal feed.
- (20) France confirms that aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1(1), points (a) to (k), of Regulation (EU) No 717/2014¹¹.
- (21) Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 41(a) and 42(a) of the Temporary Crisis Framework, France will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 400 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 42(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 35 000 will not be exceeded per undertaking.

2.8. Cumulation

- (22) The French authorities confirm that aid granted under the measure may be cumulated with aid under the *de minimis* Regulations¹² or the GBER, the ABER

¹¹ Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

¹² Commission Regulation (EU) No 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), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de

and the FIBER¹³ provided the provisions and cumulation rules of those Regulations are respected.

- (23) The French authorities confirm that aid under the measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (24) The French authorities confirm that aid under the measure may be cumulated with aid under measures approved by the Commission under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak¹⁴ (“COVID-19 Temporary Framework”) provided the respective cumulation rules are respected.
- (25) The French authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Crisis Framework provided the provisions in those specific sections are respected.
- (26) The French authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 2.1 of the Temporary Crisis Framework, the overall maximum cap per undertaking, as set out in point 42(a) of that framework, will be respected. Aid granted under the measure and other measures approved by the Commission under section 2.1 of the Temporary Crisis Framework which has been reimbursed before 31 December 2022 will not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. Monitoring and reporting

- (27) The French authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis Framework (including the obligation to publish relevant information on each individual aid above EUR 10 000 granted under the measure on the comprehensive national State aid website or Commission’s IT tool within 12 months from the moment of granting¹⁵).

minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9) and Commission Regulation (EU) No 717/2014.

¹³ Commission Regulation (EC) 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 on the Functioning of the European Union (OJ L 193, 1.7.2014, p. 1) (“ABER”) and 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 on the Functioning of the European Union (OJ L 369, 24.12.2014, p. 37) (“FIBER”).

¹⁴ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

¹⁵ Referring to information required in Annex III to the ABER and Annex III to the FIBER.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (28) By notifying the measure before putting it into effect, the French authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (29) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (30) The measure is imputable to the State, since it is administered by the public agency FranceAgriMer, as shown in recital (8), and will be based on a decision of the Director of FranceAgriMer, as shown in recital (7). It is financed through State resources, since it is financed by public funds, as shown in recital (9).
- (31) The measure confers an advantage on its beneficiaries in the form of direct grants, as shown in recital (6). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings affected by the current crisis, as shown in recital (16), i.e. small and medium-sized farms and fish farms, excluding the financial sector, as shown in recital (11).
- (33) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (34) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The French authorities do not contest that conclusion.

3.3. Compatibility

- (35) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (36) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (37) By adopting the Temporary Crisis Framework on 23 March 2022, the Commission acknowledged (in section 1) that the military aggression against Ukraine by Russia, the sanctions imposed by the Union or its international partners and the counter measures taken, for example by Russia have created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas

and electricity, but also in numerous other input and raw materials and primary goods, including in the agri-food sector. In particular, point 4 of the Temporary Crisis Framework recognizes that the crisis is likely to have serious consequences on the supply of grain (in particular maize and wheat) and oilseeds (sunflower rapeseed) or starch-derivatives from Ukraine and Russia to the Union, leading to a strong increase in livestock feed prices.

- (38) Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of France. The Commission concluded that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU for a limited period if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian military aggression against Ukraine, the sanctions imposed by the Union or by its international partners, as well as the economic counter measures taken so far, for example by Russia.
- (39) The measure aims at facilitating the access of undertakings to external finance at a time when a wide range of economic sectors are affected, the normal functioning of markets is severely disturbed leading to severe disturbances of the real economy of Member States, including in the economy of France.
- (40) The measure is one of a series of measures conceived at national level by the French authorities to remedy a serious disturbance in their economy. The importance of the measure to compensate for the severe increase in the prices of animal feed is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire French economy. As mentioned in recital (16), the aid has been designed to specifically and exclusively target undertakings strongly affected by the Russian aggression against Ukraine and/or the sanctions imposed or the economic counter-measures taken in the wake of that aggression. Thus, the eligible costs correspond to the additional costs borne by the undertaking concerned and resulting from a rise in the price of animal feed which is due to the current crisis. In addition, only undertakings demonstrating significant dependency on animal feed in relation to their overall costs are eligible. The measure has been designed to meet the requirements of a specific category of aid (“Aid in the form of limited amounts of aid”) described in section 2.1 of the Temporary Crisis Framework.
- (41) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the relevant conditions of the Temporary Crisis Framework. In particular:
- The aid takes the form of direct grants, as shown in recital (6).
 - The overall nominal value of the direct grants will not exceed EUR 35 000 per undertaking active in the primary production of agricultural products and fishery and aquaculture sectors, as shown in recital (18); all figures used must be gross, that is, before any deduction of tax or other charges. If the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 2.1 of the Temporary Crisis Framework, the overall

maximum cap per undertaking, as set out in point 42(a) of that framework, will be respected, as shown in recital (26). The measure therefore complies with point 42(a) of the Temporary Crisis Framework.

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (9). The measure therefore complies with point 41(b) of the Temporary Framework.
 - Aid will be granted under the measure no later than 31 December 2022, as shown in recital (10). The measure therefore complies with point 41(c) of the Temporary Crisis Framework.
 - Aid will be granted only to undertakings affected by the crisis because of the reasons stated in recital (16). The measure therefore complies with point 41(d) of the Temporary Crisis Framework.
 - Aid granted to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market (recital 19). The measure therefore complies with point 42(b) of the Temporary Crisis Framework.
 - Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1(1), points (a) to (k), of Commission Regulation (EU) No 717/2014 (recital 20). The measure therefore complies with point 42 (c) of the Temporary Crisis Framework.
 - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 41(a) and 42(a) of the Temporary Crisis Framework, France will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 400 000 is not exceeded per undertaking, as shown in recital (21). Where an undertaking is active in the sectors covered by point 42(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 35 000 is not exceeded per undertaking, as shown in recital (21). The measure therefore complies with point 43 of the Temporary Crisis Framework.
- (42) The French authorities confirm that, pursuant to point 32 of the Temporary Crisis Framework, the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital 4).
- (43) The French authorities confirm that, pursuant to point 33 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the Union, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the Union; or c) undertakings active in industries targeted by

sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions (recital 13).

- (44) The French authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital 27). The French authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Crisis Framework, the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations or Guidelines are respected (recitals (22) to (25)). Furthermore, the French authorities confirm that aid under the measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected (recital (23)).
- (45) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(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