



EUROPEAN COMMISSION

Brussels, 16.3.2021
C(2021) 1902 final

SENSITIVE* : *COMP Operations*

Subject: **State Aid SA.62102 (2021/N) – France**
COVID-19: Amendment of State aid measures SA.56709, SA.56985, SA.56868, SA.57219, SA.57367, SA.57695, SA.57754 and SA.60965

Excellency,

1. PROCEDURE

- (1) By electronic notification of 24 February 2021, amended on 1 and 11 March 2021, France notified amendments concerning the following existing aid schemes and its amendments (“the existing aid schemes”) which the Commission had already approved (“the initial decisions”) in light of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”)¹:
- (a) SA.56709 : *COVID-19: Plan de sécurisation du financement des entreprises*, which the Commission approved by Decision of 21 March 2020 C(2020) 1884 final, amended by Decisions SA.57502 of 4 June 2020 C(2020) 3763 final, SA.57989 of 28 July 2020 C(2020) 5310 final, SA.58137 of 31 July 2020 C(2020) 5413 final , SA.58475 of 8 September 2020 C(2020) 6246 final, SA.59722 of 9 December 2020 C(2020) 9072 final and SA.59897 of 12 January 2021 C(2021) 231 final;
 - (b) SA.56868: *COVID-19: Garanties des préfinancements des entreprises françaises exportatrices*, which the Commission approved by Decision of 24 April 2020 C(2020) 2742 final, amended by Decisions SA.58137 of 31 July 2020 C(2020) 5413 final and SA.59722 of 9 December 2020 C(2020) 9072 final;

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

¹ 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) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

Monsieur Jean-Yves le Drian
Ministre de l'Europe et des Affaires Étrangères
37, Quai d'Orsay F –75351 Paris

- (c) SA.56985: *COVID-19: Régime cadre temporaire pour le soutien aux entreprises*, which the Commission approved by Decision of 20 April 2020 C(2020) 2595 final, amended by Decisions SA. 57299 of 20 May 2020 C(2020)3460 final, SA.58137 of 31 July 2020 C(2020) 5413 final and SA.59722 of 9 December 2020 C(2020) 9072 final;
 - (d) SA.57219: *COVID-19: Garanties des cautions*, which the Commission approved by Decision of 11 May 2020 C(2020) 3177 final, amended by decision SA.58137 of 31 July 2020 C(2020) 5413 final and SA.59738 of 9 December 2020 C(2020) 9072 final;
 - (e) SA.57367: *COVID-19: Aid for COVID-19 relevant R&D projects, investment into relevant testing and upscaling infrastructures, and investment into COVID-19 relevant production capacities*, which the Commission approved by Decision of 5 June 2020 C(2020) 3883 final, amended by Decisions SA.58137 of 31 July 2020 C(2020) 5413 final and SA.59722 of 9 December 2020 C(2020) 9072 final;
 - (f) SA.57695: *COVID-19: Régime d'aides sous la forme de prêts publics subordonnés*, which the Commission approved by Decision of 30 June 2020 C(2020) 4527 final, amended by Decisions SA.58137 of 31 July 2020 C(2020) 5413 final and SA.59722 of 9 December 2020 C(2020) 9072 final;
 - (g) SA.57754: *COVID-19: Dispositif d'activité partielle ad hoc*, which the Commission approved by Decision of 29 June 2020 C(2020) 4512 final, amended by Decisions SA.58108 of 30 July 2020 C(2020) 5347 final, SA.58522 of 10 September 2020 C(2020) 6295 final, SA.58689 of 24 September 2020 C(2020) 6703 final, SA.58978 of 15 October 2020 C(2020) 7219 final, SA.59722 of 9 December 2020 C(2020) 9072 final and SA.60095 of 15 December 2020 C(2020) 9339 final;
 - (h) SA.60965: *COVID-19: Régime d'aides sous la forme d'une compensation pour les congés payés acquis en période d'activité partielle*, which the Commission approved by Decision of 26 January 2021 C(2021) 498 final.
- (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.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) On 28 January 2021, the Commission adopted a Communication prolonging until 31 December 2021 the validity of the Temporary Framework, which would otherwise expire at the end of June 2021. The Communication also increases the overall aid ceiling per undertaking, as referred to in section 3.1 of the Temporary Framework, from EUR 800000 to EUR 1.8 million per undertaking, with the exception of (i) undertakings active in the fishery and aquaculture sector, for

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

these undertakings the ceiling has been increased from EUR 120000 to EUR 270000; and (ii) undertakings active in the primary production of agricultural products, for them the ceiling has been increased from EUR 100000 to EUR 225000.

- (4) Following the prolongation of the Temporary Framework, the French authorities wish to extend the duration of the existing aid schemes until 31 December 2021, with the effect that, under all of the schemes listed in recital (1), aid can be granted until 31 December 2021 at the latest.
- (5) Furthermore, the French authorities notified for the scheme SA.56985 *COVID-19: Régime cadre temporaire pour le soutien aux entreprises*, listed in recital (1), an increase in the aid ceiling per undertaking which can be granted when clearly specified by a national measure adopted under this scheme and up to the maximum ceiling referred to in section 3.1 of the Temporary Framework. If the aid is granted in the form of a tax advantage, the tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2021. Aid granted on the basis of schemes approved under this section which has been reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded. And the aid granted to undertakings active in the processing and marketing of agricultural products³ is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.
- (6) For the same scheme (SA.56985) the French authorities notified a budget increase from EUR 20 billion to EUR 50 billion.
- (7) France confirms that the aid granted under the measures shall not be 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.
- (8) All the other conditions of the existing aid schemes remain unchanged.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (9) By notifying the amendments to the existing aid schemes before putting them into effect, the French authorities have respected their obligation under Article 108(3) of the TFEU.

³ As defined in Article 2(6) and Article 2(7) of 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.

3.2. Existence of State aid

- (10) 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.
- (11) The existing aid measures concerned constitute State aid in the meaning of Article 107(1) TFEU for the reasons set out in the initial decisions⁴ described under recital (1). The proposed amendments do not alter that conclusion. The Commission therefore refers to the respective assessment of the aforementioned decisions and concludes that the existing aid schemes as modified constitute State aid in the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (12) The Commission assessed the existing aid schemes on the basis of Article 107(3)(b) and Article 107(3)(c) TFEU in light of the Temporary Framework and concluded that they were compliant with the compatibility conditions set out in that Framework.

⁴ Recitals (46)-(51) of Commission Decision C(2020) 1884 final, **SA.56709**, of 21 March 2020; recitals (34)-(39) of Commission Decision C(2020) 2742 final, **SA.56868**, of 24 April 2020; recitals (43)-(49) of Commission Decision C(2020) 2595 final, **SA.56985**, of 20 April 2020; recitals (38)-(43) of Commission Decision C(2020) 3177 final, **SA.57219**, of 11 May 2020; recitals (15)-(16) of Commission Decision C(2020) 3460 final, **SA.57299**, of 20 May 2020; recitals (55)-(60) of Commission Decision C(2020) 3883 final, **SA.57367**, of 5 June 2020; recitals (16)-(17) of Commission Decision C(2020) 3763 final, **SA.57502**, of 4 June 2020; recitals (36)-(42) of Commission Decision C(2020) 4527 final, **SA.57695**, of 30 June 2020; recitals (23)-(28) of Commission Decision C(2020) 4512 final, **SA.57754**, of 29 June 2020; recitals (38)-(43) of Commission Decision C(2020) 5310 final, **SA.57989**, of 28 July 2020; recitals (21)-(25) of Commission Decision C(2020) 5347 final, **SA.58108**, of 30 July 2020; recitals (7)-(8) of Commission Decision C(2020) 5413 final, **SA.58137**, of 31 July 2020; recitals (23)-(24) of Commission Decision C(2020) 6246 final, **SA.58475**, of 8 September 2020; recitals (21)-(23) of Commission Decision C(2020) 6295 final, **SA.58522**, of 10 September 2020; recitals (26)-(28) of Commission Decision C(2020) 6703 final, **SA.58689**, of 24 September 2020; recitals (35)-(38) of Commission Decision C(2020) 7219 final, **SA.58978**, of 15 October 2020; recitals (6)-(8) of Commission Decision C(2020) 9072 final, **SA.59722**, of 9 December 2020; recitals (6)-(8) of Commission Decision C(2020) 9072 final, **SA.59378**, of 9 December 2020; recitals (22)-(23) of Commission Decision C(2020) 231 final, **SA.59897**, of 12 January 2021; recitals (21)-(23) of Commission Decision C(2020) 9339 final, **SA.60095**, of 15 December 2020; recitals (25)-(30) of Commission Decision C(2020) 498 final, **SA.60965**, of 26 January 2021.

- (13) The Commission refers to its analysis of compatibility as set out in the initial decisions⁵ described under recital (1).
- (14) The Commission has examined the notified amendments and concludes that they do not alter the Commission's conclusions on the compatibility of the existing aid schemes as set out in the initial decisions. Namely, the prolongation of the duration of the existing aid schemes until 31 December 2021 is in line with the relevant sections of the Temporary Framework. The increased notified aid ceilings for scheme SA.56985 is in line with Section 3.1 of the Temporary Framework and the notified budget increase for this scheme will not alter the initial compatibility assessment. France confirmed that the aid granted under the existing measures will not be conditioned on the relocation of a production activity in line with point 16ter of the Temporary Framework.
- (15) Apart from the amendments referred to in recitals (4), (5), (6) and (7) the Commission notes that there are no other alterations to the existing aid schemes.
- (16) In view of the above, the Commission considers that the notified amendments meet the conditions of the Temporary Framework and do not alter the conclusions on the compatibility of the existing aid schemes.

⁵ Recitals (52)-(58) of Commission Decision C(2020) 1884 final, **SA.56709**, of 21 March 2020; recitals (40)-(46) of Commission Decision C(2020) 2742 final, **SA.56868**, of 24 April 2020; recitals (50)-(62) of Commission Decision C(2020) 2595 final, **SA.56985**, of 20 April 2020; recitals (44)-(65) of Commission Decision C(2020) 3177 final, **SA.57219**, of 11 May 2020; recitals (17)-(24) of Commission Decision C(2020)3460 final, **SA.57299**, of 20 May 2020; recitals (61)-(72) of Commission Decision C(2020) 3883 final, **SA.57367**, of 5 June 2020; recitals (18)-(22) of Commission Decision C(2020) 3763 final, **SA.57502**, of 4 June 2020; recitals (43)-(49) of Commission Decision C(2020) 4527 final, **SA.57695**, of 30 June 2020; recitals (29)-(36) of Commission Decision C(2020) 4512 final, **SA.57754**, of 29 June 2020; recitals (44)-(55) of Commission Decision C(2020) 5310 final, **SA.57989**, of 28 July 2020; recitals (26)-(31) of Commission Decision C(2020) 5347 final, **SA.58108**, of 30 July 2020; recitals (9)-(13) of Commission Decision C(2020) 5413 final, **SA.58137**, of 31 July 2020; recitals (25)-(29) of Commission Decision C(2020) 6246 final, **SA.58475**, of 8 September 2020; recitals (24)-(28) of Commission Decision C(2020) 6295 final, **SA.58522**, of 10 September 2020; recitals (29)-(38) of Commission Decision C(2020) 6703 final, **SA.58689**, of 24 September 2020; recitals (39)-(47) of Commission Decision C(2020) 7219 final, **SA.58978**, of 15 October 2020; recitals (9)-(14) of Commission Decision C(2020) 9072 final, **SA.59722**, of 9 December 2020; recitals (9)-(14) of Commission Decision C(2020) 9072 final, **SA.59378**, of 9 December 2020; recitals (24)-(30) of Commission Decision C(2020) 231 final, **SA.59897**, of 12 January 2021; recitals (24)-(28) of Commission Decision C(2020) 9339 final, **SA.60095**, of 15 December 2020; recitals (31)-(38) of Commission Decision C(2020) 498 final, **SA.60965**, of 26 January 2021.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified amendments on the grounds that they are compatible with the internal market pursuant to Article 107(3)(b) and Article 107(3)(c) TFEU.

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

