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Subject: State Aid SA.103548 (2022/N) – France
TCF: Modification to SA.102783 (2022/N)

Excellency,

1. PROCEDURE

- (1) On 29 June 2022, France notified by electronic notification an amendment (the “notified amendment”) to State aid measure SA.102783 (2022/N) – “TCF: *Dispositif exceptionnel de prise en charge de cotisations sociales en faveur des entreprises du secteur de l’agriculture, de la forêt et de l’aquaculture fortement affectées par les conséquences de l’agression de la Russie contre l’Ukraine*” (the “existing aid scheme”), approved by Commission Decision C(2022) 3286 final of 16 May 2022 (the “initial decision”) 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. On 1 July 2022, France submitted complementary information.
- (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 NOTIFIED AMENDMENT

- (3) France wishes to amend the existing aid scheme and modify the maximum aid amount per beneficiary that can be granted.
- (4) In the existing aid scheme, “[t]he maximum aid amount under the measure [is] EUR 5 000 per undertaking; All figures are gross, that is, before any deduction of tax or other charges” (see recital (17) of the initial decision).
- (5) According to the notified amendment, “[t]he maximum aid amount under the measure will be EUR 5 000 per undertaking. By exception, in the case of a ‘total GAEC’³, the total amount of aid may be increased to EUR 35 000. All figures are gross, that is, before any deduction of tax or other charges.”
- (6) In the case of a total GAEC, the aid will be capped at EUR 5 000 per partner, within the above-mentioned limit of EUR 35 000 at the level of the group.
- (7) Apart from the notified amendment, France confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unchanged.
- (8) 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.
- (9) The legal basis of the notified amendment is the Ministerial Instruction dedicated to the exceptional scheme of reduction of social contributions in favour of companies in the agriculture, forestry, agricultural or forestry work and aquaculture sectors strongly affected by the consequences of Russia's aggression against Ukraine⁴.
- (10) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission's approval of the notified amendment. The French authorities have confirmed that no subsidies according to this scheme as amended will be granted before the notification of the approval decision of the Commission and that the amended scheme will enter into force after the approval from the Commission.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (11) By notifying the amendments before putting them into effect, the French authorities have respected their obligations under Article 108(3) TFEU.

³ GAEC: *Groupement agricole d'exploitation en commun* (Agricultural group operating in common). A “total GAEC” is a GAEC in which the partners – participating undertakings – have pooled all of their agricultural production activities. Conversely, if the GAEC is partial, the partners have only pooled part of their agricultural production activities. GAECs are governed by articles L323-1 to L323-16 of the Rural and Maritime Fishery Code (*Code rural et de la pêche maritime*). The “total GAEC” is specially designed for the agricultural sector and results from a partnership between farmers in order to develop jointly and enhance their farms.

⁴ *Instruction ministérielle dédiée aux prises en charge exceptionnelles de cotisations sociales en faveur des entreprises du secteur de l'agriculture, de la forêt, de travaux agricoles ou forestiers et de l'aquaculture fortement affectées par les conséquences de l'agression de la Russie contre l'Ukraine.*

3.2. Existence of State aid

- (12) 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 be liable to affect trade between Member States.
- (13) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (28) to (33) of the initial decision.
- (14) The notified amendment does not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decision and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (15) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of section 2.1 of the Temporary Crisis Framework for the reasons set out in recitals (34) to (43) of the initial decision. The Commission therefore refers to the assessment of the initial decision.
- (16) The notified amendment concerns the maximum of the overall nominal value of the aid under this measure (recital (3)). The maximum aid amount under the initial decision is capped at EUR 5 000 per undertaking. By means of the notified amendment, the ceiling remains unchanged except for “total GAECs” for which the maximum aid amount may be increased to EUR 35 000. The Commission notes that the overall nominal value of the aid under this measure will thus not exceed EUR 35 000 per undertaking active in the primary production of agricultural products and fishery and aquaculture sectors, or EUR 400 000 per undertaking in all other sectors. All figures used are gross, that is, before any deduction of tax or other charges (recital (3)). The measure therefore complies with points 41(a) and 42(a) of the Temporary Crisis Framework.
- (17) Apart from the notified amendment, France confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unchanged (recital (7)).
- (18) The Commission therefore considers that the notified amendment 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 Crisis Framework. The Commission therefore considers that the notified amendment does not alter the Commission’s conclusion on the compatibility of the existing aid scheme in the initial decision.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the scheme, as amended, 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