



EUROPEAN COMMISSION

Brussels, 10.01.2023
C(2023) 244 final

PUBLIC VERSION

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Subject: State Aid SA.105134 (2022/N) – France
**TCF: Exceptional tax credit to support the elimination of glyphosate
in connection with the difficulties encountered by the agricultural
sector due to Russian aggression against Ukraine**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 2 December 2022, France notified aid in the form of limited amounts of aid (“TCF: *Crédit d’impôt exceptionnel d’accompagnement à la sortie du glyphosate en lien avec les difficultés rencontrées par les entreprises agricoles en raison de la crise provoquée par l’agression russe contre l’Ukraine*”, “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. On 6 December 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

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 426, 9.11.2022, p. 1). This Temporary Crisis Framework (‘current Temporary Crisis Framework’) replaces the Temporary Crisis Framework adopted on 23 March 2022 (OJ C 131 I, 24.3.2022, p. 1) as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1) (‘previous Temporary Crisis Framework’). The previous Temporary Crisis Framework was withdrawn with effect from 27 October 2022.

S. E. Madame Catherine COLONNA
Ministre de l’Europe et des Affaires étrangères
37, Quai d’Orsay
F - 75351 PARIS

Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) France considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken by Russia (“the current crisis”) so far affects the real economy. According to the French authorities³, Russia's military aggression against Ukraine is leading to disruptions in the supply of French economy, both in terms of flows and in terms of prices, which significantly affect the agricultural sector. Undertakings in the primary agricultural production sector therefore face the following problems: a substantial increase in the cost of various energy products (gas, electricity and fuel); a considerable increase in the cost of inputs (fertilizer and animal feed in particular) in a context of scarcity; and shortages in the supply of raw materials. Farms find themselves financially weakened by this international context, which contributes to sharply increasing their production costs and generating great uncertainty on the markets and on the conditions for the supply of fertilizers and energy. Overall, in August 2022, the purchase price of inputs increased year on year by 28.7%⁴. The second cost item having increased the most, the price of energy and lubricants increased by 42.4% over one year and by 48.7% between January 2022 and August 2022. Finally, the price of animal feed increased by 29.6% over one year, in line with the rise in the price of cereals and oilseeds⁵. In addition to this increase in production costs directly linked to the impact of the war in Ukraine, French farms have suffered several climatic events (frost in April 2022, hailstorms in June and intense drought) which have affected yields in many crops. Farms, weakened by the COVID-19 pandemic, are now also facing the economic consequences of Russia's aggression against Ukraine which exacerbate the difficulties encountered in engaging in the adoption of new farming practices. Overall, this situation has caused financial difficulties of many agricultural enterprises, especially within the context of the implementation of the glyphosate phase-out plan, adopted by France in 2018, which induces rather significant additional costs for farms. Thus, the measure aims at remedying the liquidity shortage faced by undertakings that are directly or indirectly affected by the current crisis.

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

³ Sources of data: INSEE (National Institute of Statistics and Economic Studies) and AGRESTE (*Service de la Statistique et de la Prospective du ministère de l'Agriculture et de l'Alimentation*) (<https://agreste.agriculture.gouv.fr>).

⁴ After falling between February 2019 and September 2020, the price of fertilizers and amendments recovered strongly until April 2022. After falling slightly, it started to rise again in August 2022. Over one year, the increase is 84.8% compared to August 2021. It is even 95.3% between January 2022 and August 2022. The continued tensions on the world fertilizer market are fuelled by the current crisis. Difficulties in the supply of gas, with limited availability and the price of which is rising sharply, are leading to reductions in the production of nitrogen fertilizers by the main European manufacturers, while imports are subject to high freight costs.

⁵ The increase in the price of inputs first impacts field crop farms (+37.7% for cereal and oilseed and protein crop farms between January 2022 and August 2022, +31.2% for other field crops), followed by livestock farms, followed by market gardening, arboriculture (+18.3%) and viticulture (+17.8%).

- (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 a tax advantage applicable to the corporate tax and the income tax.

2.2. Legal basis

- (7) The legal bases for the measure are Article 140 of the Finance Law for 2021, Law No 2020-1721 of 29 December 2020⁶ and the prolongation of the measure included in Article 52 of the Finance Law for 2023, Law No 2022-1726 of 30 December 2022⁷.

2.3. Administration of the measure

- (8) The Ministry of Economy, Finance and Industrial and Digital Sovereignty is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget is EUR 215 million, financed from the State budget.
- (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 2023. The end date is set on 31 December 2023, this being the final date to submit the commitment of the beneficiaries not to use glyphosate in 2023⁸.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are undertakings affected by the current crisis and active in the agricultural primary production, exercising their activity in the permanent crops sector (excluding nurseries), short rotation coppices (viticulture and fruit trees) and arable land excluding fallow or greenhouse areas (field crops and field vegetables). Livestock farmers and polyculture-livestock farms that exercise significant part of their activity in these crops can also benefit from the measure.
- (12) France confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons,

⁶ *Article 140 de la Loi n° 2020-1721 du 29 décembre 2020 de finances pour 2021.*

⁷ *Article 52 de la Loi n° 2022-1726 du 30 décembre 2022 de finances pour 2023.*

⁸ The tax liability in relation to which the aid is granted must have arisen no later than 31 December 2023, in line with footnote 61 of the Temporary Crisis Framework.

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 EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.

- (13) France confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations⁹. 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

- (14) The measure is open to undertakings active in certain agricultural subsector, as described in recital (11). It applies to the whole territory of France. France confirms that credit institutions or other financial institutions are excluded from being beneficiaries of the aid.

2.7. Basic elements of the measure

- (15) The objective of the aid is to offset part of the losses suffered by the agricultural enterprises due to the current crisis, in order to make it financially possible for farmers to bear, in the short term, the additional costs incurred by the use of glyphosate alternatives and possible economic losses linked to the glyphosate-free farming. The aid is thus designed to provide aid to farmers hit by the current crisis, facing shortage or unavailability of liquidity, in order to make it financially possible to abandon the use of products containing the active substance of glyphosate and try out alternative practices in years 2022 and 2023¹⁰.
- (16) According to the French authorities, given that first the COVID-19 pandemic and then the current crisis, have significantly weakened the agricultural primary production sector, in the absence of aid farmers may not be able to move towards new, more expensive practices. The aid in the form of a tax advantage has, in view of the French authorities, a strong potential to incentivize a large number of farms to try out alternative practices.
- (17) Aid is conditional on the cessation of the use of plant protection products containing the active substance of glyphosate during the year 2022 and/or 2023.

⁹ 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).

¹⁰ According to the French authorities, stopping the use of glyphosate requires an in-depth rethink of crop weed control practices. Glyphosate is a total systemic herbicide and there is no chemical equivalent authorized in France with the same spectrum of use and the same conditions of use. Its substitution by other chemicals will therefore necessarily be partial and limited. In any case, there is no chemical alternative to glyphosate in intercropping.

The abandonment of glyphosate will therefore result in the vast majority of situations in an increased use of tillage, resulting in higher production costs due to the economic consequences of the war in Ukraine, including in particular the increase in energy and fuels.

- (18) The aid will amount to a tax advantage of EUR 2 500 per year in respect of the income tax due for the year in which the products containing glyphosate was not used and, in respect of the corporate tax, on the results of the closed financial year during which these products were not used¹¹. The maximum aid per beneficiary under the measure will be EUR 5 000.
- (19) However, the overall nominal value of the tax advantages under the measure will not exceed EUR 250 000 per undertaking, at any given point in time; all figures are gross, that is, before any deduction of tax or other charges.
- (20) The French authorities confirm that the aid is not fixed on the basis of the price or quantity of products put on the market.

2.8. Cumulation

- (21) The French authorities confirm that aid granted under the measure will not be cumulated with aid under *de minimis* Regulations¹² or the Block Exemption Regulations¹³.
- (22) 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.
- (23) The French authorities confirm that aid under the measure will not be cumulated with aid under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak¹⁴ (“COVID-19 Temporary Framework”).
- (24) The French authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission

¹¹ If the amount of the tax credit exceeds the amount of tax due for the year, the excess is returned to the taxpayer.

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 minimis* aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

¹³ 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) and Commission Regulation (EU) 2022/2472 of 14 December 2022 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 327, 21.12.2022, p. 1).

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), C(2021) 8442 (OJ C 473, 24.11.2021, p. 1) and C(2022) 7902 (OJ C 423, 7.11.2022, p. 9).

under other sections of the Temporary Crisis Framework provided the provisions in those specific sections are respected.

- (25) France confirms that for aid granted under Section 2.1 of the previous and current Temporary Crisis Framework, the aid ceilings provided in the respective section of the current Temporary Crisis Framework are respected at any point in time.
- (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 points 55(a) or in 56(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 granting of new aid under that section 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 twelve months from the moment of granting¹⁵).

3. ASSESSMENT

3.1. Existence of State aid

- (28) 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.
- (29) The measure is imputable to the State, since it is administered by the Ministry of Economy, Finance and Industrial and Digital Sovereignty (recital (8)) and it is based on the Finance Law for 2021, Law No 2020-1721 of 29 December 2020 and the prolongation of the measure included at the Finance Law for 2023, Law No 2022-1726 (recital (7)). It is financed through State resources, since it is financed by public funds (recital (9)).
- (30) The measure confers an advantage on its beneficiaries in the form of a tax benefit (recital (6)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.

¹⁵ Referring to information required in Annex III to Commission Regulation (EU) No 702/2014.

- (31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. undertakings active in some specific agricultural subsector, excluding the financial sector (recital (14)).
- (32) 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.
- (33) Therefore, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The French authorities do not contest that conclusion.

3.2. Compatibility

- (34) 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.
- (35) 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*”.
- (36) By adopting the Temporary Crisis Framework, the Commission acknowledged (in Section 1) that the military aggression against Ukraine by Russia, the sanctions imposed the EU or its international partners and the counter measures taken 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 agricultural sector. 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.
- (37) The measure aims at providing liquidity to certain undertakings active in the primary production of agricultural products 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.
- (38) The measure is one of a series of measures conceived at national level by the French authorities to remedy a serious disturbance in the French economy. The importance of the measure to ensure sufficient liquidity of the beneficiaries that face cost increases of fertilisers, fuel, and other production inputs 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. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in Section 2.1 of the Temporary Crisis Framework.

- (39) 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 a tax advantage (recital (6)).
 - The overall nominal value of the tax advantage does not exceed EUR 250 000 per undertaking active in the primary production of agricultural products; all figures used are gross, that is before any deduction of tax or other charges (recital (19)). If the beneficiary receives aid on several occasions 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 points 55(a) or 56(a) of that framework, will be respected (recital (26)). The measure therefore complies with point 56(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 55(b) of the Temporary Crisis Framework.
 - Aid will be granted under the measure no later than 31 December 2023, as indicated in recital (10). For aid in form of tax advantages, the tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2023, as shown in recital (10). The measure therefore complies with point 55(c) of the Temporary Crisis Framework.
 - Aid will be granted only to undertakings affected by the current crisis (recitals (3), (11) and (15)). The measure therefore complies with point 55(d) of the Temporary Crisis Framework.
 - Aid granted is not fixed on the basis of the price or quantity of products put on the market (recital (20)). The measure therefore complies with point 56(b) of the Temporary Crisis Framework.
- (40) France confirms that, in accordance with point 84 of the Temporary Crisis Framework, overall aid granted under Section 2.1 of the previous and current Temporary Crisis Framework will not exceed the aid ceilings provided in the respective section of the current Temporary Crisis Framework at any point in time (see recital (25)).
- (41) The French authorities confirm that, pursuant to point 46 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)).
- (42) The French authorities confirm that, pursuant to point 47 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, 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 EU; or c) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recitals (12) and (13)).

- (43) 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 and the cumulation rules of the relevant Regulations are respected (recitals (21) to (24)).
- (44) 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 Crisis 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