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Subject: State Aid SA.108694 (2023/N) – France
TCTF: Exceptional scheme for covering the economic losses of
agricultural sectors specialised in organic production

Excellency,

1. PROCEDURE

- (1) By electronic notification of 19 July 2023, France notified aid in the form of limited amounts of aid (TCTF: “*Dispositif exceptionnel de prise en charge des pertes économiques des filières agricoles spécialisées dans la production biologique*”, “the measure”) under the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the “Temporary Crisis and Transition Framework”) ⁽¹⁾.

⁽¹⁾ Communication from the Commission on the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 101, 17.3.2023, p. 3). This Temporary Crisis and Transition Framework replaces the Temporary Crisis Framework adopted on 28 October 2022 (OJ C 426, 9.11.2022, p. 1) (‘Temporary Crisis Framework’), which had already replaced the previous Temporary Crisis Framework adopted on 23 March 2022 (OJ C 131I, 24.3.2022, p. 1), as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1). The Temporary Crisis Framework was withdrawn with effect from 9 March 2023.

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- (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 1/1958 ⁽²⁾ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) France considers that the Russian aggression against Ukraine and its direct and indirect effects, including the sanctions imposed and the counter-measures taken for example by Russia, have economic repercussions on the entire internal market (“the current crisis”). According to the French authorities, the current crisis has 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, highly relevant for the agricultural sector. Those effects taken together have caused a serious disturbance of the economy in all Member States. The French authorities point out that the current crisis is having a severe impact on the agricultural sector. In particular, the French organic farming sector that had experienced more than a decade of continuous and sustained growth, both in terms of production and consumption, since the Russian aggression against Ukraine, has experienced, in an inflationary context, a particularly marked demand crisis. Farmers who have taken risks in recent years by modifying their farming systems to convert to organic production are now facing difficulties in selling their products, which are degrading their level of profitability and jeopardising the sustainability of their operations. The current crisis has also had a direct economic impact on the organic agricultural production sector. On the one hand, it generated a significant increase in the cost of energy (fuel, electricity, gas) and raw materials (feed for monogastric farms, for example), reinforced by the difficulties in the supply of these inputs. Although the organic sectors are less dependent than conventional sectors on external inputs, the significant increases in operating costs that they have experienced lead to additional production costs. Thus, for example, additional costs have been recorded in the production of eggs (+27% in 2022 compared to 2021) ⁽³⁾ or pigs (increase in feed for organic pigs from EUR 520 to EUR 635/tonne between September 2021 and September 2022, leading to an increase of EUR 0.50/kg per carcass). On the other hand, the current crisis has contributed to an acceleration in inflation since the summer of 2021 (5.2% over one year in January 2023) ⁽⁴⁾. Since February 2022, Russia's military aggression against Ukraine has increased the prices of many raw materials with, moreover, a reduction in Ukrainian exports which has aggravated this situation. This inflation is particularly marked in the food sector (12.1% over one year in January 2023). It had the effect of reducing household consumption expenditure related to food by 5.1% (excluding inflation) in 2022 compared to 2021 ⁽⁵⁾, which

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

⁽³⁾ Index « coût des matières premières dans l'aliment des poules pondeuses biologiques » (Source : SNIA -Syndicat National de l'Industrie de la Nutrition Animale- et ITAVI -Institut technique des filières avicole, cunicole et piscicole-).

⁽⁴⁾ Source: *Institut national de la statistique et des études économiques* (INSEE).

⁽⁵⁾ Ibid.

is particularly significant in the organic products sector ⁽⁶⁾. As a result, organic farms cannot pass on the increases in production costs as part of the selling price, and, beyond that, face a strong limitation of their outlets. Such a situation is likely to call into question these farms' viability and/or their orientation towards organic agriculture ⁽⁷⁾. Thus, the measure aims at addressing the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy.

- (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 European Economic Area ("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), point (b), TFEU, in light of Sections 1 and 2.1 of the Temporary Crisis and Transition Framework.

2.1. The nature and form of aid

- (6) The measure provides aid on the basis of a scheme 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 General of FranceAgriMer relating to the procedures for implementing the exceptional scheme for covering the economic losses of agricultural sectors specialising in organic production caused by the consequences of Russia's aggression against Ukraine ⁽⁸⁾.

⁽⁶⁾ According to the Barometer of consumption and perception of organic products 2023 ("Obsoco" for *Agence Bio* -<https://www.agencebio.org/>), when it comes to choosing between price and quality for their food purchases, nearly half (49%) of French people indicate making trade-offs in favour of price. The market for organic products is particularly affected by this constraint. Thus, 83% of French people who restrict themselves on their food budget say they avoid products from organic farming because they think they cost too much. The price remains the first declared obstacle to the consumption of organic food products. This perception of organic products, reinforced by the inflationary context, has resulted in a drop in the consumption of organic products. Thus, home consumption by French households for organic products fell by 4.6% in 2022 compared to 2021. In one year, the sector recorded more than EUR 580 million in losses. This drop is notably linked to the drop of 16 points in 2022 compared to 2021 in the share of regular organic consumers (60% in 2022). Fresh products (butchers, charcuterie, fishmongers, fruits and vegetables and cheeses) have suffered the most from this drop in consumption.

⁽⁷⁾ Between 2018 and 2022, the number of organic farmers increased by 45% and exceeded 60 000, as did the areas under organic production which also increased by 45% between 2018 and 2022 to reach more than 2.8 million hectares in 2022. However, especially in 2022, the sector's growth prospects are closing, with a 42% reduction in surface areas in the first year of conversion compared to 2020, a drop in new hires of 32 % and an increase in stoppages of 73% (Source: *Agence Bio*).

⁽⁸⁾ *Projet de décision de la directrice générale de FranceAgriMer relative aux modalités de mise en œuvre du dispositif exceptionnel de prise en charge des pertes économiques des filières agricoles spécialisées dans la production biologique engendrées par les conséquences de l'agression de la Russie contre l'Ukraine.*

2.3. Administration of the measure

- (8) The public agency FranceAgriMer ⁽⁹⁾ is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget is EUR 60 million, financed from the State budget.
- (10) France has confirmed that the Decision of the Director General of FranceAgriMer will only be adopted following – and thus aid may be granted under the measure only as from – the notification of the Commission’s decision approving the measure until no later than 31 December 2023.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are small and medium-sized enterprises ⁽¹⁰⁾ active in the primary agricultural production specialised 100% in organic agriculture that are affected by the current crisis (the “beneficiaries”) ⁽¹¹⁾. The beneficiaries must fulfil the following eligibility criteria supported by an accounting certificate:
- (a) they have suffered a loss of EBE ⁽¹²⁾ over the compensated financial year ⁽¹³⁾ greater than or equal to 20% compared to the average EBE of the period of reference ⁽¹⁴⁾; and

⁽⁹⁾ *Établissement national des produits de l’agriculture et de la mer.*

⁽¹⁰⁾ As defined in Annex I to the 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).

⁽¹¹⁾ The beneficiaries of the aid scheme SA.107474 (2023/N) “TCTF: Exceptional scheme to cover the economic losses of the lavender sector caused by the consequences of Russia’s military aggression against Ukraine” approved by Commission decision C(2023) 3444 final of 23 May 2023, are excluded from the benefit of the aid.

⁽¹²⁾ EBE: *Excédent brut d’exploitation*, which in practice corresponds to an undertaking’s EBITDA (Earnings before interest, taxes, depreciation, and amortisation), less any impact of provisions for expenses. For applicants that qualify as ‘micro BA’ (*micro-bénéfice agricole*, micro agricultural profit) who do not keep accounts in this way, the EBE is replaced by the gross operating margin (income - expenses) to which are added operating subsidies and aid received over the accounting years used.

⁽¹³⁾ The compensated financial year is the beneficiary’s financial year ending between 1 June 2022 and 31 May 2023 (‘the compensated financial year’).

⁽¹⁴⁾ The period of reference corresponds to the applicant’s two accounting years closed between 1 June 2018 and 31 May 2020 (‘the period of reference’). In the case of takeover, merger, or division of the farm, it is the accounting history of previous operations that must be used.

In case of applicants recently established in agriculture who do not have two accounting years closed during the period of reference, due to their recent installation, the eligibility criteria will be assessed on a different basis. These applicants must prove their status as a young farmer or newly settled in agriculture, by official proof of the date of installation and the accounting certificates showing two consecutive closed accounting years or the only closed accounting year since their installation. In the absence of a closed accounting year, the business plan/economic study carried out by an accountant as part of the installation or the historical values in the event of the resumption of an operation in organic farming to be compared with the actual realisation over the compensated financial year.

- (b) they have had a deterioration in net cash over the compensated financial year greater than or equal to 20% compared to the average net cash of the period of reference.
- (12) 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.
- (13) 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 regulations⁽¹⁵⁾. 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 the primary agricultural sector, specifically in the organic farming, as mentioned 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 measure aims to remedy the immediate liquidity problems of the organic agricultural farms, likely to jeopardise their sustainability, and to avoid massive deconversions that is, return to conventional agriculture, which would impact France's potential organic production.
- (16) The calculation of the amount of aid is equal to 50% of the decrease of the eligible EBE of the farm. If the beneficiary has received aid under the 'Emergency fund'⁽¹⁶⁾, the amount received will be deducted from the aid amount under the measure. If the result of the calculation of the aid is less than EUR 1 000, the aid will not be paid to the beneficiary.
- (17) The overall nominal value of the direct grants under the measure will not exceed EUR 250 000 per undertaking per Member State, at any given point in time; all figures are gross, that is, before any deduction of tax or other charges.

⁽¹⁵⁾ 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).

⁽¹⁶⁾ Emergency fund set up by the Ministry of Agriculture and Food Sovereignty in March 2023 to support organic farms in difficulty. This fund has been approved by the Ministry of Agriculture and Food Sovereignty in application of 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).

- (18) 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. Compliance with relevant provisions of Union law

- (19) The French authorities confirm that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law.

2.9. Cumulation

- (20) The French authorities confirm that aid granted under the measure may be cumulated with support under the *de minimis* Regulation⁽¹⁷⁾ or aid under the Block Exemption Regulation⁽¹⁸⁾ provided the provisions and cumulation rules of those Regulations are respected.
- (21) The French authorities confirm that aid under the measure will not be cumulated with other forms of Union financing.
- (22) The French authorities confirm that aid under the measure may be cumulated with aid under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak⁽¹⁹⁾ (“COVID-19 Temporary Framework”) provided the respective cumulation rules are respected.
- (23) 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 and Transition Framework provided the provisions in those specific sections are respected.
- (24) France confirms that for aid granted under Section 2.1 of the previous Temporary Crisis Framework and the Temporary Crisis and Transition Framework, the aid ceilings provided in the respective section of the Temporary Crisis and Transition Framework are respected at any point in time.
- (25) The French authorities confirm that if a 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 and Transition Framework, the overall maximum cap per undertaking per Member State, as set out in points 61(a) and in 62(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 previous Temporary Crisis Framework or under the Temporary Crisis and Transition Framework which has been reimbursed before

⁽¹⁷⁾ Commission Regulation (EU) No 1408/2013.

⁽¹⁸⁾ Commission Regulation (EU) 2022/2472.

⁽¹⁹⁾ 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).

granting of new aid under that section will not be taken into account in determining whether the relevant ceiling is exceeded.

2.10. Monitoring and reporting

- (26) The French authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 3 of the Temporary Crisis and Transition 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 granting ⁽²⁰⁾).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (27) By notifying the measure before putting it into effect, the French authorities have respected their obligations under Article 108(3) TFEU (recitals (7) and (10)).

3.2. 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 public agency FranceAgriMer (recital (8)) and it will be based on the legal act the draft of which is identified in recital (7). It is financed through State resources since it is financed by public funds emanating from the State budget (recital (9)).
- (30) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (6)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. undertakings active in the organic agricultural production, 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.

⁽²⁰⁾ Referring to information required in Annex III to Commission Regulation (EU) 2022/2472.

3.3. 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), point (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 and Transition Framework, the Commission acknowledged (in Section 1) that the current crisis has 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.
- (37) 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), point (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 current crisis.
- (38) 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.
- (39) 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 energy, 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 and Transition Framework.
- (40) 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 and Transition Framework. In particular:
- the aid takes the form of direct grants (recital (6));
 - the overall nominal value of the grants does not exceed EUR 250 000 per undertaking active in the primary production of agricultural products per Member State; all figures used are gross, that is before any deduction of tax or other charges (recital (17)). 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 and Transition

Framework, the overall maximum cap per undertaking, per Member State, as set out in points 61(a) or 62(a) of that framework, will be respected (recital (25)). The measure therefore complies with point 62(a) of the Temporary Crisis and Transition Framework;

- aid is granted under the measure on the basis of a scheme (recital (6)) with an estimated budget, as indicated in recital (9). The measure therefore complies with point 61(b) of the Temporary Crisis and Transition Framework;
 - aid will be granted under the measure no later than 31 December 2023, as indicated in recital (10). The measure therefore complies with point 61(c) of the Temporary Crisis and Transition Framework;
 - aid will be granted only to undertakings affected by the current crisis (recitals (3) and (11)). The measure therefore complies with point 61(d) of the Temporary Crisis and Transition Framework;
 - aid granted is not fixed on the basis of the price or quantity of products put on the market (recital (18)). The measure therefore complies with point 62(b) of the Temporary Crisis and Transition Framework.
- (41) State aid measures that entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law cannot be declared compatible with the internal market ⁽²¹⁾
- (42) France confirms that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law. In addition, the Commission has no indications of any possible breach of Union law that would prevent the notified measure from being declared compatible with the internal market (see recital (19)).
- (43) Therefore, the Commission considers that the measure does not infringe any relevant provisions of Union law.
- (44) France confirms that, in accordance with point 95 of the Temporary Crisis and Transition Framework, overall aid granted under Section 2.1 of the previous Temporary Crisis Framework and the Temporary Crisis and Transition Framework will not exceed the aid ceilings provided in the respective section of the Temporary Crisis and Transition Framework at any point in time (see recital (26)).
- (45) The French authorities confirm that, pursuant to point 51 of the Temporary Crisis and Transition 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)).

⁽²¹⁾ Judgment of 31 January 2023, *Commission v Braesch and Others*, C-284/21 P, EU:C:2023:58, paragraphs 96 *et seq.*

- (46) The French authorities confirm that, pursuant to point 52 of the Temporary Crisis and Transition 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 (recitals (12) and (13)).
- (47) The French authorities confirm that the monitoring and reporting rules laid down in Section 3 of the Temporary Crisis and Transition Framework will be respected (recital (26)). 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 and Transition Framework and the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (20) to (23)).
- (48) 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), point (b), TFEU since it meets all the relevant conditions of the Temporary Crisis and Transition 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), point (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