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Subject: - State Aid SA.110574 (2023/N) – France
TCTF: Exceptional scheme for fruit and vegetables farms in the French outermost regions due to the price increases of fertilisers and soil conditioners (amendments to SA.108916 (2023/N))
- State Aid SA.110576 (2023/N) – France
TCTF: Exceptional scheme for the reduction of the social security contributions in favour of undertakings in the agriculture, forestry and aquaculture sectors strongly affected by the consequences of the Russian aggression against Ukraine (amendments to SA.102783 (2022/N))

Excellency,

1. PROCEDURE

- (1) By electronic notifications of 5 December 2023, France notified amendments (the ‘notified amendments’) to the following existing aid schemes (the ‘existing aid schemes’) which the Commission approved 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⁾ by decisions in cases SA.108916 (2023/N) “*Exceptional scheme for fruit and vegetables farms in the French outermost regions due to the price increases of fertilisers and soil conditioners*” ⁽²⁾ and SA.102783 (2022/N)

⁽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), as amended by Commission Communication C(2023)8045 (OJ C1188, 21.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1188/oj>).

⁽²⁾ Commission Decision C(2023)5884 of 28 August 2023 in case SA.108916 (OJ C 327, 15.9.2023, p. 14), as amended by Commission Decision C(2023)7802 of 14 November 2023 in case SA.109962 (OJ C1271, 30.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1271/oj>).

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“Exceptional scheme for the reduction of the social security contributions in favour of undertakings in the agriculture, forestry and aquaculture sectors strongly affected by the consequences of the Russian aggression against Ukraine” ⁽³⁾ (the ‘initial decisions’).

- (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 ⁽⁴⁾ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) The objective of the existing aid schemes is 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 aggression against Ukraine and its direct and indirect effects, including the sanctions imposed and the counter-measures taken, for example by Russia.
- (4) France proposes to amend the existing aid schemes as follows:
- a. to prolong the duration of the existing aid schemes SA.102783 and SA.108916 from 31 December 2023 to 30 June 2024;
 - b. to increase the overall maximum aid amount per undertaking that may be granted under the existing aid scheme SA.102783 from EUR 35 000 to EUR 280 000 per undertaking active in the primary production of agricultural products and to EUR 335 000 per undertaking active in the fishery and aquaculture sectors, and from EUR 400 000 to EUR 2.25 million in all other sectors enumerated in recital 11 of the Commission Decision C(2022)3286 of 16 May 2023;
 - c. to increase the overall maximum aid amount per undertaking that may be granted under the existing aid scheme SA.108916 from EUR 250 000 to EUR 280 000 per undertaking active in the primary production of agricultural products.
- (5) France confirms that in the case of the existing aid schemes, where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 61(a) and 62(a) of the Temporary Crisis and Transition 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 2.25 million is not exceeded per undertaking. Where an undertaking is active exclusively in the sectors covered by point 62(a) of the Temporary Crisis and Transition Framework, the overall maximum amount of EUR 335 000 will not be exceeded per undertaking.

⁽³⁾ Commission Decision C(2022)3286 of 16 May 2023 in case SA.102783 (OJ C 220, 3.6.2022, p. 12), as amended by Commission Decisions C(2023)5059 of 12 July 2022 in case SA.103548 (OJ C 292, 29.7.2022, p. 1) and C(2022)9949 of 21 December 2022 in case SA.105310 (OJ C 13, 13.1.2023, p. 1).

⁽⁴⁾ Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

- (6) Apart from the notified amendments, France confirms that no further amendments are proposed to the existing aid schemes and that all other conditions of these schemes remain unaltered.
- (7) The respective legal bases for the notified amendments are:
- (a) for case SA.102783 (2022/N), draft of the modification of the Ministerial Instruction of 15 June 2022 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 Ukraine;
 - (b) for case SA.108916 (2023/N), draft of the modification of notes of service DGPE/SDFE/2023-598 of 21 September 2023 and DGPE/SDFE/2023-725 of 23 November 2023.
- (8) Aid may be granted under the existing aid schemes, as amended, as from the notification of the Commission's decision approving the notified amendments.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

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 be liable to affect trade between Member States.
- (11) The existing aid schemes constitute State aid within the meaning of Article 107(1) TFEU for the reasons set out in the initial decisions ⁽⁵⁾. The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decisions and concludes that the existing aid schemes, as amended, constitute State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (12) The existing aid schemes are compatible with the internal market pursuant to Article 107(3), point (b) TFEU, since they meet the conditions of section 1 and section 2.1 of the Temporary Crisis and Transition Framework for the reasons set

⁽⁵⁾ For case SA.102783, recitals (27) to (33) of the Commission Decision C(2022)3286 of 16 May 2023, recitals (12) to (14) of the Commission Decision C(2022) 5059 final of 12 July 2022 in case SA.103548 (2022/N) and recitals (9) and (10) of the Commission Decision C(2022)9949 of 21 December 2022 in case SA.105310. For case SA.108916, recitals (28) to (33) of the Commission Decision C(2023)5884 of 28 August 2023, and recitals (9) and (10) of the Commission Decision C(2023)7802 of 14 November 2023 in case SA.109962.

out in the initial decisions ⁽⁶⁾. The Commission therefore refers to the respective assessment of the initial decisions.

- (13) The notified amendments do not affect the conclusion that the existing aid schemes are compatible with the internal market pursuant to Article 107(3), point (b), TFEU. In particular:
- The aid under the existing aid schemes SA.102783 and SA.108916 will be granted no later than 30 June 2024 (recital 4)(a)). The notified amendments thus comply with point 61(c) of the Temporary Crisis and Transition Framework;
 - The maximum aid amount per undertaking under the existing aid schemes SA.102783 and SA.108916 will be increased to EUR 280 000 in the primary production of agricultural products, to EUR 335 000 in the fishery and aquaculture sectors and to EUR 2.25 million in the other sectors enumerated in recital 11 of the Commission Decision C(2022)3286 of 16 May 2023 (recital (4)(b) and (c)). The notified amendments thus comply with points 61(a) and 62(a) of the Temporary Crisis and Transition Framework;
 - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 61(a) and 62(a) of the Temporary Crisis and Transition Framework, France will ensure, by relying on 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 2.25 million is not exceeded per undertaking per Member State (recital (5)). Where an undertaking is active in the sectors covered by point 62(a) of the Temporary Crisis and Transition Framework, the overall maximum amount of EUR 335 000 is not exceeded per undertaking per Member State (recital (5)). The measure therefore complies with point 63 of the Temporary Crisis and Transition Framework.
- (14) Apart from the notified amendments, France confirms that no further amendments are proposed to the existing aid schemes and that all other conditions of these schemes remain unaltered.
- (15) The Commission therefore considers that the notified amendments are 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 they meet all the relevant conditions of the Temporary Crisis and Transition Framework. The Commission therefore considers that the notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid schemes in the initial decisions.

⁽⁶⁾ For case SA.102783, recitals (34) to (43) of the Commission Decision C(2022)3286 of 16 May 2023, recitals (15) to (18) of the Commission Decision C(2022) 5059 final of 12 July 2022 in case SA.103548 (2022/N) and recitals (11) and (15) of the Commission Decision C(2022)9949 of 21 December 2022 in case SA.105310. For case SA.108916, recitals (34) to (47) of the Commission Decision C(2023)5884 of 28 August 2023, and recitals (11) and (14) of the Commission Decision C(2023)7802 of 14 November 2023 in case SA.109962.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the schemes, as amended, on the grounds that they are 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

For the Commission

Margrethe VESTAGER
Executive Vice-President