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

Excellency,

1. PROCEDURE

- (1) By electronic notification of 27 April 2022, France notified aid in the form of limited amounts of aid ("*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 "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. By e-mail of 12 May 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 131 I, 24.3.2022, p. 1).

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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 Union and its international partners and the counter-measures taken so far, for example by Russia, ('the current crisis') affects the real economy. 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 relevant in the agri-food sector, including for the undertakings providing work in the agricultural and forestry sectors. France reports that the evolution of the price of inputs can be followed via the price index of purchases of means of agricultural production (IPAMPA)³. For the cost of fertilizers, it is possible to rely on estimates made by technical institutes: on average, the prices of fertilizers used in the agriculture, forestry and aquaculture sectors are estimated to increase between 30% and 50% from January 2022 to the summer of 2022. Regarding energy prices (non-road diesel and natural gas): on average, an increase of 35% for non-road diesel and 70% for natural gas are expected between January 2022 and summer 2022 for agricultural and forestry undertakings as well as aquaculture. Thus, the measure aims to remedy the liquidity shortage faced by undertakings in the sectors concerned that are directly or indirectly affected by the serious disturbance of the economy caused by the current crisis.
- (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 reduction of social contributions.

2.2. Legal basis

- (7) The legal basis for the measure are Articles L.726-3 and R.726-1 of the Rural and Maritime Fishery Code⁴. For members of the aquaculture sector affiliated to the

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

³ IPAMPA is an index constructed by the National Institute of Statistics and Economic Studies (INSEE), which notably makes it possible to measure the variations in the purchase prices borne by farms for their production inputs.

⁴ *Articles L.726-3 et R.726-1 du code rural et de la pêche maritime.*

ENIM⁵, the legal basis is Article 2 of the Decree 2010-1009 of 30 August 2010. The legal basis is complemented by the draft of 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 Ukraine⁶.

2.3. Administration of the measure

- (8) The *Caisse Centrale de Mutualité Sociale Agricole* (CCMSA) is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 152 500 000.
- (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 2022⁷.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are small and medium-sized enterprises⁸ active in the primary agricultural production, forest exploitation, provision of agricultural and forestry works, fish farming (continental and marine), and professional fishing on foot or in fresh water ("the sectors concerned"), affected by the current crisis. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.
- (12) The beneficiaries must fulfil the following three criteria:
- (a) be affiliated to the social protection scheme for self-employed agricultural workers or to the social protection scheme for seafarers for fish farmers;
 - (b) have temporary cash flow difficulties jeopardising their ability to pay their social security contributions within the prescribed time limits;
 - (c) be significantly affected by the increase in input costs that occurred as a result of the Russian aggression against Ukraine.
- (13) 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

⁵ *Établissement national des invalides de la marine (ENIM)*.

⁶ *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*.

⁷ Furthermore, the social contribution liability must have arisen no later than 31 December 2022.

⁸ As defined in Annex I to 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) ("GBER").

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.

- (14) 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 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

- (15) The measure is open to the sectors concerned, as detailed in recital (11). The financial sector is excluded. It applies to the whole territory of France¹⁰.

2.7. Basic elements of the measure

- (16) The aid under the measure is granted to undertakings of the sectors concerned affected by the current crisis since the Russian military aggression against Ukraine has caused an increase in production costs. The objective of this aid is to remedy the serious disruption of the economy caused by the increase in the price of electricity, animal feed and fuel, with a strong impact on the designated beneficiaries, with large losses of income and putting their economic viability at serious risk. Support for these undertakings is the only way to maintain their activity and, therefore, employment and the function they perform as suppliers of food products for the population of the Union. The French authorities confirm that the aid will be granted only to undertakings affected by the crisis in compensation for the increase in costs caused by the increase in the price of electricity, animal feed and fuel, derived from the current crisis. In fact, the French authorities indicate that the aid has been designed to specifically and exclusively target undertakings strongly affected by the current crisis. Thus, the conditions for access to the aid and the maximum amount of the aid are established according to the additional costs borne by the applicant undertaking and resulting from a rise in the prices of one or more input items, in particular fuel, energy (natural gas, electricity), fertilizers, and certain packaging (notably glass), following the Russian aggression against Ukraine.

- (17)

The amount of the aid under the measure for each individual beneficiary is capped at 30% of the additional cost observed compared to the reference period. This additional cost is calculated by subtracting from the cost recorded on the expenditure items¹¹ identified as impacted by the current crisis during a period between 1st March 2022 and 30 September 2022 at the latest, the costs incurred

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 Including metropolitan France and the outermost departments.

¹¹ The additional cost can be entered for each of the following expenditure items: fuel, fertilizer, gas, electricity, animal feed and/or packaging. In addition, the possibility is left of entering additional costs for other expenditure items, provided that the applicant provides precise justifications proving that the increase in costs of more than 50% is indeed linked to the current crisis.

on the same items over the same period of 2021¹². Only undertakings justifying an additional cost greater than or equal to 50% of their costs observed on the items concerned compared to the reference period may be granted aid¹³. Only these additional costs greater than 50% of the costs of the reference period will be covered by the aid measure. The maximum aid amount under the measure will be EUR 5 000 per undertaking; All figures are gross, that is, before any deduction of tax or other charges.

- (18) France confirms that aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market. The aid calculation method is described in recital (17).
- (19) France confirms that aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1(1), points (a) to (k), of Regulation (EU) No 717/2014¹⁴.
- (20) Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 41(a) and 42(a) of the Temporary Crisis 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 400 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 42(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 35 000 will not be exceeded per undertaking.

2.8. Cumulation

- (21) The French authorities confirm that aid granted under the measure may be cumulated with aid under the *de minimis* Regulations¹⁵ or the GBER, the ABER

¹² The additional cost related specifically to animal feed and/or energy, covered under other aid measures, will not be taken into account in the calculation of the additional cost supported by the undertaken as part of their request.

¹³ The data available for the period March 2021 - February 2022 show that the various supply items for agricultural and forestry operations have undergone significant increases in the last months, before the outbreak of the war. Depending on the position, the increase in costs is between 10% and 50%, out of all proportion to the changes observed over the last decade. The current crisis has very significantly accentuated these cost increases with increases ranging from 25% to 70%. By targeting undertakings with additional costs in 2022 greater than or equal to 50% of their costs observed on the items concerned compared to a similar period in 2021 (and capping the aid to 30% of such increase in costs), the system makes it possible to very precisely target undertakings whose high level of additional costs is linked to the current crisis.

¹⁴ Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

¹⁵ 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 717/2014.

and the FIBER¹⁶ provided the provisions and cumulation rules of those Regulations are respected.

- (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 may be cumulated with aid under measures approved by the Commission under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak¹⁷ (the “COVID-19 Temporary Framework”) provided the respective cumulation rules are respected.
- (24) 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 Framework provided the provisions in those specific sections are respected.
- (25) 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 point 42(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 31 December 2022 will not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. 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 Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure and EUR 10 000 in the primary agriculture and in the fishery sectors on the comprehensive national State aid website or Commission’s IT tool within 12 months from the moment of granting¹⁸).

¹⁶ 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) (“ABER”) and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 369, 24.12.2014, p. 37) (“FIBER”).

¹⁷ 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), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

¹⁸ Referring to information required in Annex III to the ABER and Annex III to the FIBER.

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.

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 *Caisse Centrale de Mutualité Sociale Agricole*, as shown in recital (8), and will be based on Articles L.726-3 and R.726-1 of the Rural and Maritime Fishery Code, Article 2 of the Decree 2010-1009 of 30 August 2010 and a ministerial instruction, as shown in recital (7). It is financed through State resources, since it is financed by public funds, as shown in recitals (6) and (9).
- (30) The measure confers an advantage on its beneficiaries in the form of a reduction of social contributions, as shown in 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 affected by the current crisis, as shown in recital (15), in particular undertakings active in the primary agricultural production, forest exploitation, provision of agricultural and forestry works, fish farming (continental and marine), and professional fishing on foot or in fresh water, excluding the financial sector, as shown in recital (11).
- (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) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The French authorities do not contest that conclusion.

3.3. 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)(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 on 23 March 2022, the Commission acknowledged (in section 1) that the military aggression against Ukraine by Russia, the sanctions imposed by the Union or its international partners and the counter measures taken, for example 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 agri-food 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, the sanctions imposed by the Union or by its international partners, as well as the economic counter measures taken so far, for example by Russia.
- (37) The measure aims at supporting the eligible undertakings of the sectors concerned and alleviating them from the negative impact of the current crisis by reducing the social contributions payment 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 their economy. The importance of the measure to compensate for the severe increase in the prices of the inputs – such as fertilisers or non-road diesel and natural gas, as shown in recital (3) – 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. As mentioned in recital (16), the aid has been designed to specifically and exclusively target undertakings strongly affected by the current crisis. Thus, the eligible costs correspond to the additional costs borne by the undertaking concerned which is due to the current crisis, as shown in recital (17). In addition, by targeting undertakings with additional costs in 2022 greater than or equal to 50% of their costs observed on the items concerned compared to a similar period in 2021, and capping the aid at 30% of the additional costs, the system makes it possible to precisely target undertakings whose high level of additional costs is linked to the current crisis. The measure has been designed to meet the requirements of a specific category of aid (“Aid in the form of 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 reduction of social contributions, as shown in recital (6).
 - The overall nominal value of the aid under this measure will 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, as shown in recital (17); all figures used are gross, that is, before any deduction of tax or other charges. In fact, France has confirmed that the maximum aid amount under this scheme is EUR 5 000 per undertaking, as indicated in recital (17) *in fine*. 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 point 42(a) of that framework, will be respected, as shown in recital (26). The measure therefore complies with point 42(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 41(b) of the Temporary Framework.
- Aid will be granted under the measure no later than 31 December 2022, as shown in recital (10). The measure therefore complies with point 41(c) of the Temporary Crisis Framework.
- Aid will be granted only to undertakings affected by the crisis because of the reasons stated in recitals (16) and (38). The measure therefore complies with point 41(d) of the Temporary Crisis Framework.
- Aid granted to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market, as indicated in recital (18). The measure therefore complies with point 42(b) of the Temporary Crisis Framework.
- Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1(1), points (a) to (k), of Commission Regulation (EU) No 717/2014 (recital (19)). The measure therefore complies with point 42(c) of the Temporary Crisis Framework.
- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 41(a) and 42(a) of the Temporary Crisis 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 400 000 is not exceeded per undertaking, as shown in recital (20). Where an undertaking is active in the sectors covered by point 42(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 35 000 is not exceeded per undertaking, as shown in recital (20). The measure therefore complies with point 43 of the Temporary Crisis Framework.

(40) The French authorities confirm that, pursuant to point 32 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)).

- (41) The French authorities confirm that, pursuant to point 33 of the Temporary Crisis 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 (recital (13)).
- (42) The French authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis 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 Framework, the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations or Guidelines are respected (recitals (21) to (24)).
- (43) 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 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/ejojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President