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Subject: State Aid SA.102772 (2022/N) – Lithuania
TCF: Individual guarantees on loans and leases

Excellency,

1. PROCEDURE

(1) By electronic notification of 26 April 2022, Lithuania notified aid in the form of liquidity support in the form of guarantees (as set out in the *draft order of the Minister of Economy and Innovation of the Republic of Lithuania on the Amendment to Order No 4-896 of the Minister of Economy and Innovation of the Republic of Lithuania 11 August 2021 'On the Approval of the Regulations for the provision of individual guarantees for loans'* and the *draft order of the Minister of Economy and Innovation of the Republic of Lithuania on the Amendment to Order No 4-617 of the Minister of Economy and Innovation of the Republic of Lithuania of 30 October 2019 'On the Approval of the Regulations for the provision of guarantees for leasing'*, together 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].

[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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(2) Lithuania 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) Lithuania 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. The current crisis 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. Those effects, taken together, have caused a serious disturbance of the economy in all Member States, including Lithuania. Lithuanian exports of goods (i.e. exports of goods of Lithuanian origin and re-exports) and services, and imports of raw materials and primary goods are substantially affected. According to Lithuania, in 2021, Lithuanian exports to Russia, Belarus and Ukraine totalled EUR 6.1 billion, representing 18 % of total Lithuanian exports. Exports of Lithuanian goods to those markets are expected to decrease by circa EUR 1.2 billion. Lithuania also submits that total Lithuanian re-exports (excluding energy products) are also expected to decline by 16.2 %, instead of growing by 12 %, as initially expected. The current crisis further affects Lithuanian exports of services, especially transport services, to Russia, Belarus and Ukraine. As a result, according to Lithuania, Lithuanian exports of services are expected to grow by 3.8 % only, as opposed to 13.3 % that was forecasted prior to the current crisis. As regards, finally, imports, Lithuania submits that, in 2021, imports from Russia, Belarus, and Ukraine to Lithuania accounted for 17 % of its total imports. 89 % of such imports concerns various raw materials or components used in the production process, including energy products (58 %), metals (9 %), wood (9 %) and fertilizers (6 %), the disruption of which has direct or indirect effects that affect many sectors. Taking into account the significant trade and economic relations between Lithuania and Ukraine, the expected decline in exports of goods and services and the disruption of raw materials imports, support is necessary for the affected companies operating in Lithuania. Thus, the measure aims 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, the sanctions imposed by the EU or by its international partners, as well as by the economic counter measures taken so far by Russia.

(4) Lithuania 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.

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

(5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 1 and 2.2 of the Temporary Crisis Framework.

2.1. The nature and form of aid

(6) The measure provides aid in the form of guarantees on loans and leases[3].

2.2. Legal basis

(7) The legal basis for the measure is the draft order of the Minister of Economy and Innovation of the Republic of Lithuania on the Amendment to Order No 4-896 of 11 August 2021 'On the Approval of the Regulations for the provision of individual guarantees for loans' and the draft order of the Minister of Economy and Innovation of the Republic of Lithuania on the Amendment to Order No 4-617 of 30 October 2019 'On the Approval of the Regulations for the provision of guarantees for leasing'.

2.3. Administration of the measure

(8) The Ministry of Economy and Innovation of the Republic of Lithuania is granting the measure, which will be financed by the State budget. The National Promotional Institution Invega is responsible for administering the measure.

2.4. Budget and duration of the measure

(9) The estimated budget of the measure is EUR 20 000 000.

(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 2022.

2.5. Beneficiaries

(11) The final beneficiaries of the measure are small and medium-sized enterprises ("SMEs") and large enterprises[4] active in Lithuania. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.

(12) Aid is granted under the measure either directly or through credit institutions and other financial institutions as financial intermediaries.

(13) Lithuania 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, 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.

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[3] Leases in this decision refers to financial lease agreements, not operating lease.

[4] 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).

(14) Lithuania 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 regulations[5]. 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 all except the following sectors: agriculture, production and processing of agricultural products, forestry, as well as fisheries, aquaculture, financial and insurance activities, distilling, rectifying and blending of spirits, wholesale of alcoholic beverages, manufacture and retail sale of weapons and ammunition, manufacture and wholesale of tobacco products, gambling and betting activities. It applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

(16) The measure provides liquidity support in the form of guarantees granted in line with all the conditions under section 2.2 of the Temporary Crisis Framework. More specifically:

- the guarantees will be provided on new individual loans and leases to undertakings active in Lithuania;
- guarantees will be granted under the measure by 31 December 2022 at the latest;
- guarantees will cover loans or leases relating to investment needs as well as working capital needs;
- as regards the maturities of the eligible instruments, loans relating to working capital needs will be for a maximum duration of three years, while loans relating to investment needs or leases can be for a maximum duration of six years;
- the duration of guarantees for loans relating to working capital needs will be limited to maximum three years, while the duration of guarantees for loans related to investment needs or leases will be limited to maximum six years. In case of guarantees for investment loans, deferral periods for the repayment of the loan principal can be granted for a maximum of twelve months. Repayments can be then made in a linear manner. The duration of the guarantees also includes the deferral period, where applicable;
- as regards the maximum amount of the loan or lease principal per beneficiary, the caps provided in points 47(e)(i) and (ii) of the Temporary Crisis Framework will apply;

[5] 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).

- guarantees will not exceed 90 % of the loan or lease principal. In case of loans for the purchase of immovable property, guarantees will not exceed 50 % of the loan principal. The exact amount of the guarantee and the limit of the guarantor's liability will be determined taking account of the limit of liability requested to be applied by the beneficiary of the guarantee, the terms of the loan or lease, the risk of the borrower or lessee and of the project being implemented, the need for the guarantee to secure the repayment of the loan or lease and the existence of other means available to that end;

- losses under the guarantee will be sustained proportionally and under the same conditions by the financial intermediary and the State. Furthermore, when the size of the loan or lease decreases over time, the guaranteed amount decreases proportionally;

- guarantee premiums will be set per individual loan or lease in line with the guidance set out in point 47(b) of the Temporary Crisis Framework. Such premiums will be set at a minimum level, which will be higher than the minimum premiums set out in the table of point 47(b) of the Temporary Crisis Framework. The actual premiums will be set by the Lithuanian authorities having regard to objective criteria related to the type of loan or lease and the recipient undertaking;

- the Lithuanian authorities confirm that the mobilisation of the guarantee is contractually linked to specific conditions, which have been agreed between the parties when the guarantee is initially granted;

- financial intermediaries will not charge any fee to the recipients when granting the loans or leases and will request lower levels of collateral than without the guarantee, thereby ensuring that the advantage of the guarantee is passed on to the final beneficiaries.

(17) The measure will be limited to undertakings that are affected by the current crisis. In particular, the borrower/lessee will be deemed to have been affected by the crisis if:

- imports or exports with Ukraine, Russia and/or Belarus of the borrower or lessee accounted for at least 25 % of their total imports or exports in the period from 1 January 2021 to 31 December 2021; or

- the borrower's or lessee's fuel, electricity and/or gas costs accounted for at least 3 % of the borrower's or lessee's expenses in 2021; and

- the borrower or lessee has no trade obligations with entities from Russia and/or Belarus or has terminated such trade obligations no later than 30 June 2022 and no later than 30 calendar days before the date of submission of the application for a guarantee.

2.8. Cumulation

(18) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations[6] or the General Block Exemption Regulation[7] provided the provisions and cumulation rules of those Regulations are respected.

(19) The Lithuanian authorities confirm that aid under the measure will not 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 outbreak[8] (COVID-19 Temporary Framework).

(20) The Lithuanian 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.

(21) The Lithuanian authorities confirm that for the same underlying loan or lease principal, aid granted under section 2.2 of the Temporary Crisis Framework will not be cumulated with aid granted under section 2.3 of that framework and vice versa or with aid granted under sections 3.2 or 3.3 of the COVID-19 Temporary Framework. For different loans or leases, aid granted under section 2.2 may be cumulated with other aid granted under section 2.2 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 47(e) of the Temporary Crisis Framework.

(22) A beneficiary may benefit in parallel from multiple schemes under section 2.2 provided the overall amount of loans or leases per beneficiary does not exceed the ceilings set out in point 47(e) of the Temporary Crisis Framework.

2.9. Monitoring and reporting

(23) The Lithuanian 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 on the comprehensive national

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6 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 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).

7 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 of 26.6.2014, p. 1).

8 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).

State aid website or Commission's IT tool within 12 months from the moment of granting[9]).

3. ASSESSMENT

3.1. Lawfulness of the measure

(24) By notifying the measure before putting it into effect, the Lithuanian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(25) 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.

(26) The measure is imputable to the State, since it is administered by the Ministry of Economy and Innovation of the Republic of Lithuania (recital (8)) and it is based on the draft legal bases set out in recital (7). It is financed through State resources, since it is financed by public funds (recital (8)).

(27) The measure confers an advantage on its beneficiaries in the form of guarantees on loans or leases not in line with market conditions (recital (16)). The measure thus relieves those beneficiaries of costs that they would have had to bear under normal market conditions.

(28) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in specific sectors, excluding the financial sector (recitals (11), (15), (17)).

(29) 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.

(30) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Lithuanian authorities do not contest that conclusion.

3.3. Compatibility

(31) 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.

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9 Referring to information required in Annex III to Commission Regulation (EU) No 651/2014. For guarantees, the nominal value of the underlying instrument shall be inserted per beneficiary.

(32) 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*".

(33) 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 EU 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. Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Lithuania. 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 EU or by its international partners, as well as the economic counter measures taken so far, for example, by Russia.

(34) The measure aims at facilitating the access of undertakings to external finance at a time when a wide range of economic sectors are affected and the normal functioning of markets is severely disturbed leading to severe disturbances of the real economy of Member States, including in the economy of Lithuania.

(35) The measure is one of a series of measures conceived at national level by the Lithuanian authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending by private banks to enterprises during the current crisis is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Lithuanian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Liquidity support in the form of guarantees*") described in section 2.2 of the Temporary Crisis Framework and the requirements for aid in the form of guarantees channelled through credit institutions or other financial institutions described in point 47(h) of the Temporary Crisis Framework.

(36) 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:

- Guarantees may be granted on new individual loans and leases made to undertakings (recitals (6), (11), (15), (16)). The measure therefore complies with point 47(a) of the Temporary Crisis Framework.

- The measure sets minimum levels for guarantee premiums (recital (16)) in line with the guidance provided in point 47(b) of the Temporary Crisis Framework.

- Guarantees may be granted under the measure by 31 December 2022 at the latest (recital (10)). The measure therefore complies with point 47(d) of the Temporary Crisis Framework.

- The measure limits the duration of the guarantees to a maximum of three years as regards loans relating to working capital needs and to a maximum of six years as regards loans related to investment needs or leases (recital (16)). The duration of the guarantees also includes any deferral periods for the repayment of the loan principal, where applicable. Guarantees may cover up to a maximum of 90 % of the loan or lease principal and losses stemming from the loans or leases are sustained proportionally and under the same conditions by the credit institutions and the State (recital (16)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (16)). The measure therefore complies with point 47(f) of the Temporary Crisis Framework.

- The maximum amount of loan or lease principal per beneficiary covered by guarantees granted under the measure is limited in line with point 47(e)(i) and (ii) of the Temporary Crisis Framework (recital (16)).

- Guarantees granted under the measure relate to investment and working capital loans or financial leases (recital (16)). The Commission notes that, by its nature, financial leasing is a form of loan for the purchase of a specific asset (e.g., equipment, vehicle) where the lessor allows the lessee to use an asset for a specific period in return of a periodic payment. The Commission therefore considers that guarantees for financial leasing are covered by point 47(g) of the Temporary Crisis Framework, similarly to loans. The measure therefore complies with point 47(g) of the Temporary Crisis Framework.

- The measure introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. In particular, the credit institutions granting the loans or leases will not charge any fee to the undertakings and will request lower levels of collateral than without the guarantee. This safeguard thus ensures that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (16)). The measure therefore complies with point 47(h) of the Temporary Crisis Framework.

- The cumulation rules set out in point 46 of the Temporary Crisis Framework are respected (recitals (18) to (22)).

- The mobilisation of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted (recital (16)).

(37) The Lithuanian 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)).

(38) The Lithuanian 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 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 (recital (13)).

(39) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (23)). The Lithuanian 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. The Lithuanian authorities also confirm that aid under the measure will not be cumulated with aid granted under the COVID-19 Temporary Framework (recitals (18) to (22)).

(40) 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

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION