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**Subject: State Aid SA.104853, SA.104854, SA.105108 (2022/N) – Lithuania
TCF: Prolongation of liquidity measures (amendments to SA.102772,
SA.104109, SA.103706)**

Excellency,

1. PROCEDURE

- (1) By electronic notifications of 15 November 2022 and of 1 December 2022, Lithuania notified amendments (the “notified amendments”) to the existing aid schemes (the “existing aid schemes”) 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⁾. The Commission approved the existing aid schemes in cases SA.102772 [Individual guarantees on loans and leases] ⁽²⁾, SA.104109

⁽¹⁾ Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 426, 9.11.2022, p.1) This Temporary Crisis Framework (‘current Temporary Crisis Framework’) replaces the Temporary Crisis Framework adopted on 23 March 2022 (OJ 131 I, 24.3.2022, p. 1) as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1) (‘previous Temporary Crisis Framework’). The previous Temporary Crisis Framework was withdrawn with effect from 27 October 2022.

⁽²⁾ Commission Decision C(2022)3742 of 2 June 2022 in case SA.102772 (OJ C 235 17.6.2022, p. 8).

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[The Incentive Financial Instrument “Direct Loans to Business Operators Affected by War”] ⁽³⁾, and SA.103706 [Guarantees and loans to support economic entities] ⁽⁴⁾ (the “initial decisions”).

- (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 ⁽⁵⁾ and to have this Decision adopted and notified only 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.

- (4) Lithuania wishes to amend the existing aid schemes as follows:

- (a) To extend the duration of all of the existing aid schemes until 31 December 2023 ⁽⁶⁾;

- (b) With regard to the existing aid scheme SA.103706:

- (i) The new total budget of the existing aid scheme is EUR 91 million. The budget for the measure on subsidised loans is increased by EUR 30 million, up to EUR 61 million. The budget for the measure on guarantees remains at EUR 30 million.

- (ii) The final beneficiaries must meet the following conditions:

- Proceeds from sales have decreased by more than 10%. The proceeds from sales are linked to the eligible activities under the existing aid scheme, support activities to agriculture and post-harvest crop activities in the period from 1 February 2022 to the date when the application for aid is submitted.
- The beneficiaries cannot be in bankruptcy and/or in liquidation.

⁽³⁾ Commission Decision C(2022)6840 of 21 September 2022 in case SA.104109 (OJ C 396 14.10.2022, p. 7).

⁽⁴⁾ Commission Decision C(2022)6147 of 23 August 2022 in case SA.103706 (OJ C 337 2.9.2022, p. 13).

⁽⁵⁾ Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

⁽⁶⁾ In the case of SA.104109 and as specified in the amended section 6.2.2 of its legal basis, the loan agreement for granting the aid must be signed till 20 December 2023.

- In case the beneficiary already benefits from a loan or guarantee under other financial instruments implemented by the Agricultural Credit Guarantee Fund, the beneficiary cannot be categorised in default, leading to the termination of a loan or leasing agreement with a financial institution.
- (iii) The option for determining the maximum amount of the loan on the basis of 15% of the beneficiary's average total annual turnover over the last three closed accounting periods is modified. This option is now restricted to 15% of the beneficiary's average annual proceeds from sale derived from eligible activities under the existing aid scheme, support activities to agriculture and post-harvest crop activities over the last three closed accounting periods. The option of 50% of energy costs over the 12 months preceding the month when the application for aid is submitted remains unchanged.
- (iv) In the case of the measure on subsidised loans:
- Until 2 months after publication of the selection of financial intermediaries, only companies involved in certain activities will have access to the aid measure. Their activities must include: (i) poultry, pig, cattle, sheep and goat farming; (ii) horticulture and gardening; (iii) aquaculture; and/or (iv) organic crop production. Afterwards, subsidised loans can be provided to all eligible companies.
 - The credit risk margins will be applied to the base rate in accordance with the Communication from the Commission, available on 1 October 2022 (i.e. 103 bps)⁽⁷⁾.
- (5) Apart from the notified amendments, Lithuania confirms that no further amendments are proposed to the existing aid schemes and that all other conditions of those schemes remain unaltered. Lithuania also confirms that aid granted under sections 2.2 and 2.3 of the previous Temporary Crisis Framework and aid granted under the same respective sections of the current Temporary Crisis Framework will not exceed the aid ceilings provided in the respective sections of the current Temporary Crisis Framework at any point in time.

⁽⁷⁾ Base rates calculated in accordance with the Commission's Communication on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6) and published on the website of DG Competition at https://ec.europa.eu/competition-policy/state-aid/legislation/reference-discount-rates-and-recovery-interest-rates_en

- (6) The legal bases for the notified amendments are the following national legal acts:
- (a) Amendments to Order No 4-896 of the Minister of the Economy and Innovation of the Republic of Lithuania of 11 August 2021 and Order No 4-617 of the Minister of the Economy and Innovation of the Republic of Lithuania of 30 October 2019 in case SA.104853;
 - (b) Amendment to Order No 4-1004 of the Minister of the Economy and Innovation of the Republic of Lithuania of 22 September 2022 in case SA.104854;
 - (c) Amendments to Order No 3D-518 of Minister of Agriculture of the Republic of Lithuania of August 29 2022, to Order No 3D-624 of Minister of Agriculture of the Republic of Lithuania of 14 November 2019 and to Resolution No 912 of the Government of the Republic of Lithuania of 22 August 1997 in case SA.105108.
- (7) 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. Existence of State aid

- (8) 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.
- (9) The existing aid schemes constitute State aid within the meaning of Article 107(1) TFEU for the reasons set out in the initial decisions ⁽⁸⁾. 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.

3.2. Compatibility

- (10) The existing aid schemes are compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of sections 1, 2.2 and 2.3 of the Temporary Crisis Framework for the reasons set out in the initial

⁽⁸⁾ See recitals (25) to (30) of the initial decision in case SA.102772; recitals (33) to (38) of the initial decision in case SA.104109; recitals (29) to (34) of the initial decision in case SA.103706.

decisions ⁽⁹⁾. The Commission therefore refers to the respective assessment of the initial decisions. The Commission notes that that assessment remains valid although the Temporary Crisis Framework has in the meantime been replaced by the version referred to in recital (1) of this Decision, inasmuch as the conditions of sections 1, 2.2 and 2.3 of the previous Temporary Crisis Framework that are relevant for the initial decisions have not been modified substantively in the current Temporary Crisis Framework ⁽¹⁰⁾.

- (11) The notified amendments do not affect the conclusion that the existing aid schemes are compatible with the internal market pursuant to Article 107(3)(b) TFEU. In particular:
- (12) The prolongation of the duration of the existing schemes until 31 December 2023 (recital (4)(a)), is in line with points 61(d) and 64(d) of the Temporary Crisis Framework.
- (13) With regard to the amendments to the existing aid scheme SA.103706:
 - (a) The introduction of a more restrictive method for one of the options to establish the maximum amount of the loan (recital (4)(b)(iii)) does not alter compliance with the limits in points 61(e) and 64(e) and of the Temporary Crisis Framework.
 - (b) In the case of the measure on subsidised loans, the applicable interest rates are equal to the base rate (1 year IBOR or equivalent as published by the Commission) available on 1 October 2022 (recital (4)(b)(iv)). The existing aid scheme, as amended, therefore complies with point 64(b) of the Temporary Crisis Framework.
- (14) Apart from the notified amendments, Lithuania confirms that no further amendments are proposed to the existing aid schemes and that all other conditions of those schemes remain unaltered.
- (15) Lithuania confirms that, in accordance with point 84 of the Temporary Crisis Framework, overall, aid granted under sections 2.1 to 2.3 of the previous Temporary Crisis Framework and aid granted under the same respective sections of the current Temporary Crisis Framework will not exceed the aid ceilings provided in the respective sections of the current Temporary Crisis Framework at any point in time (see recital (5)).
- (16) 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)(b) TFEU, since they meet all the relevant conditions of the Temporary Crisis Framework. The Commission therefore considers that the notified amendments do not

⁽⁹⁾ See recitals (31) to (40) of the initial decision in case SA.102772; recitals (39) to (48) of the initial decision in case SA.104109; recitals (35) to (45) of the initial decision in case SA.103706.

⁽¹⁰⁾ See in this regard Annex II (Correlation Table) to the Temporary Crisis Framework.

alter the Commission's conclusion on the compatibility of the existing aid schemes in the initial decision.

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)(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

