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**Subject: State Aid SA.107831 (2023/N) – Lithuania
TCTF: Loans to support economic entities (amendments to SA.103706
and SA.105108)**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 2 June 2023, Lithuania notified amendments (the ‘notified amendments’) to the existing aid scheme (the ‘existing aid scheme’) 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⁾. The Commission approved the existing aid scheme in case SA.103706 *TCF: Guarantees and loans to support economic entities* ⁽²⁾ (the ‘initial decision’) and amendments to this scheme in case SA.105108 *TCF: Prolongation of liquidity measures*

⁽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 The Temporary Crisis Framework was withdrawn with effect from 9 March 2023.

⁽²⁾ Commission Decision C(2022)6147 of 23 August 2022 in case SA.103706 (OJ C 337, 2.9.2022, p. 13).

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(amendments to SA.102772, SA.104109, SA.103706) ('the amending decision')⁽³⁾.

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

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) The objective of the existing aid scheme is to remedy the liquidity shortage faced by small and medium-sized enterprises (SMEs) and large enterprises active in the agriculture, food, forestry, rural development, fishery and aquaculture sectors 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 by Russia. The scheme consists of guarantees on loans and subsidised loans according to sections 2.2 and 2.3 of the Temporary Crisis and Transition Framework.

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

- (a) To increase the amount of funding planned for subsidised loans from EUR 61 000 000 to EUR 84 000 000. The budget for the measure on guarantees remains at EUR 30 million. The new total budget of the existing aid scheme is EUR 114 million.
- (b) To extend the period for signing subsidised loan agreements from 30 June 2023 until 31 December 2023.
- (c) With regard to the selection of financial intermediaries to provide subsidised loans under the scheme:

The Agricultural Credit Guarantee Fund Ltd. will continue to perform the selection until its ongoing reorganisation is completed. After that, its legal successor, the Investment and Business Guarantees Ltd., will perform the selection of financial intermediaries, subject to the same rules and the same procedure as currently applied by the Agricultural Credit Guarantee Fund Ltd. Apart from the change in the public entity selecting the financial intermediaries, the amendments do not foresee any other changes concerning the selection. The Investment and Business Guarantees Ltd. is fully owned by the Lithuanian state and its shares are managed by the Ministry of Finance. With regard to the selection of financial intermediaries, it performs functions of the state as a National Promotional Institution. As such, it is supervised by the Bank of Lithuania concerning compliance with the national rules for such institutions.

⁽³⁾ Commission Decision C(2022)9607 of 14 December 2022 in case SA.105108 (OJ C 13, 13.1.2023, p. 12).

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

- (d) With regard to the eligibility of beneficiaries:
- (i) To exclude from the scope of the subsidised loan scheme:
- economic entities engaged in the production of fur animals,
 - economic entities that are subject to restructuring at the time of application,
 - economic entities that are implementing investment projects under the Strategic Plan of Agriculture and Rural Development 2023-2027, if loans for working capital and/or biological assets ⁽⁵⁾ are provided under that measure.
- (ii) To grant subsidised loans to entities which meet at least one of the following conditions:
- The value of the emergency coverage (critical liquidity) ratio (Current Assets - Inventories / Current Liabilities) is less than 1.
 - The value of the debt ratio (Liabilities / Assets) is higher than 0.6.
- (e) With regard to the subsidised loan provisions:
- (i) To amend the eligible costs. Loans can be granted to finance the purchases of current assets, to pay wages and related taxes but also for the following:
- The acquisition of biological assets.
 - The fulfilment of previously assumed obligations to financial institutions when the purpose of the loan or financial lease (leasing) service is used for one of the following:
 - i) Financing working capital, when the loan was granted in accordance with the COVID-19 Temporary Framework and disbursed until 31 December 2020.
 - ii) Implementation of an investment project, carrying out the agricultural and aquacultural activities whereas the investments must be related to the construction, purchase or renovation of real estate, the purchase of agricultural machinery and/or other production equipment.

⁽⁵⁾ The term biological assets under this measure comprises animals and plants owned, used, and disposed of by an undertaking, with the intention of being sold or otherwise used in the undertaking's activities, such as to obtain new biological assets or agricultural products. Agricultural products are obtained by separation from biological assets or by interrupting the vital or vegetative processes of biological assets.

- By way of derogation from the above two points, loans for the purchase of current and/or biological assets and/or for the payment of wages cannot be granted if other significant circumstances are identified which may lead to non-fulfilment of financial obligations under existing agreements and/or which may have a negative impact on the economic entity's activity.
- (ii) To add the following conditions for determining the amount of the subsidised loan:
- The amount of the subsidised loan or its part per beneficiary for biological assets does not exceed EUR 200 000.
 - The amount of the subsidised loan may be increased in line with point 70(e)(iii) of the Temporary Crisis and Transition Framework to cover the needs of previously assumed obligations to financial institutions. These include repayments of previously taken loans and payments under financial lease agreements, the purpose of which is either to finance working capital or implement an investment project. Beneficiaries have to justify the increase through self-certification of the liquidity needed (including outstanding amounts to be paid, working capital and/or investment costs) to fulfil the assumed obligations to the financial institution from the date of signing the loan agreement for the coming 6 months for large undertakings and for the coming 12 months for micro, small and medium-sized undertakings. Lithuania justifies this measure on the basis of the difficulties that Lithuania has observed for undertakings to repay subsidised loans received under the State aid scheme approved in case SA.57823 ⁽⁶⁾ due to the continuing negative economic consequences of the aggression against Ukraine by Russia and the current economic situation including reduced income and rising interest rates. Lithuania, therefore, considers that this notified amendment is justified on the basis that it is needed so as to assist undertakings in the repayment of previously taken loans which, due to the steep cost increases resulting from the prolongation of the current crisis, the undertakings are no longer able to satisfy absent further public assistance.
- (f) With regard to the number of subsidised loans that can be granted per beneficiary, an exception to the rule that only one loan per beneficiary can be granted is introduced:
- (i) If a loan was granted under the scheme until 30 June 2023 for current assets and/or payment of wages, another loan can be granted to cover the needs for financing the purchases of biological assets or previously assumed obligations to financial institutions (including the administration fee of the loan).

⁽⁶⁾ Commission Decision C(2020)4941 of 14 July 2020 in case SA.57823.

- (g) The disbursement of loans is planned in three stages:
- (i) Until 14 September 2023 the funds can be lent to economic entities engaged in dairy, poultry, pig and/or horticulture farming activities, when the income from those activities during 2022 amounts at least to 50% of total income.
 - (ii) From 15 September 2023 until 30 October 2023 the funds can be lent to economic entities engaged in poultry, pig, cattle, sheep and goat farming, horticulture, aquaculture, organic crop production.
 - (iii) As of 31 October 2023, loans can be lent to all eligible economic entities.
- (5) Apart from the notified amendments, Lithuania confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme 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 and Transition Framework will not exceed the aid ceilings provided in the respective sections of the Temporary Crisis and Transition Framework at any point in time.
- (6) The legal basis for the notified amendments is the Draft Order Amending Order No 3D-518 of the Minister of Agriculture of the Republic of Lithuania of 29 August 2022 *‘On the Approval of the Scheme of the Financial Incentive Measure ‘Loans to ensure the Liquidity of Economic Entities active in Field of production, processing and marketing of Agricultural and Aquaculture Products following the aggression against Ukraine by Russia’* (the ‘Draft Amending Order’) ⁽⁷⁾.
- (7) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission’s decision approving the notified amendments ⁽⁸⁾.

3. ASSESSMENT OF THE MEASURE

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (9) 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

⁽⁷⁾ Pakeičiu Skatinamosios finansinės priemonės “Paskolos ūkio subjektų, veikiančių žemės ūkio ir žuvininkystės produktų gamybos, perdirbimo ir prekybos srityse, likvidumui užtikrinti reaguojant į Rusijos agresiją prieš Ukrainą“ available at <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/64c44000ee5411edb649a2a873fdbfd?positionInSearchResults=0&searchModelUUID=1a3af4be-c018-4aaa-aa8e-7aee81c7e4d7>.

⁽⁸⁾ The Commission’s approval decision is mentioned as the legal basis in No. 1 of the Draft Order Amending Order No 3D-518 of the Minister of Agriculture on the approval of the scheme of the financial incentive measure.

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.

- (10) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in the initial decision⁽⁹⁾ and the amending decision⁽¹⁰⁾. The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessments of the initial decision and the amending decision and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (11) The existing aid scheme is 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 and Transition Framework for the reasons set out in recitals (35) to (45) of the initial decision in case SA.103706 and in recitals (11) to (16) of the amending decision. The Commission therefore refers to the respective assessments of the initial decision and the amending decision. The Commission notes that these assessments remain 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 decision and the amending decision have not been modified substantively in the Temporary Crisis and Transition Framework⁽¹¹⁾.
- (12) The notified amendments do not affect the conclusion that the existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU.
- (13) Recital (4)(b) is in line with point 70(d) of the Temporary Crisis and Transition Framework as loans under the scheme have to be granted before 31 December 2023.
- (14) The amendment in recital (4)(c) does not affect compliance with point 70(g) of the Temporary Crisis and Transition Framework, as only the legal entity in charge of selecting financial intermediaries changes, all other conditions for the selection remaining equal. In particular, this means that there is no change in the requirement that benefits of the subsidised loans are passed on to the final beneficiaries and that the measure will not trigger a re-financing of existing subsidised loans.
- (15) The amendments concerning the tightening of the eligibility criteria of beneficiaries in recital (4)(d) does not affect the validity of the Commission's assessment at recitals (37) and (38) of the initial decision that the measure aims to remedy the liquidity shortage faced by undertakings in the agriculture, food, forestry, rural development, fishery and aquaculture sectors, which have been

⁽⁹⁾ See recitals (30) to (34) of the initial decision in case SA.103706.

⁽¹⁰⁾ See recital (9) of the amending decision in case SA.105108.

⁽¹¹⁾ See in this regard Annex II (Correlation Table) to the Temporary Crisis Framework.

directly or indirectly affected by the serious disturbances of the economy of Lithuania 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.

- (16) The amendments in recital (4)(e)(i) regarding the eligible costs are in compliance with point 70(f) of the Temporary Crisis and Transition Framework.
- (17) The amended provision in recital (4)(e)(ii) on the possible increase of the amount of a loan complies with point 70(e)(iii) of the Temporary Crisis and Transition Framework. The Commission recalls that this requires self-certification of liquidity needs by the beneficiaries which is a condition under the proposed amendments. Further, Lithuania argues that the possibility of lending funds to repay previously taken loans could mitigate the negative consequences for those undertakings and help them cope with the steep cost increases as a consequence of the current crisis.
- (18) Apart from the notified amendments, Lithuania confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.
- (19) Lithuania confirms that, in accordance with point 95 of the Temporary Crisis and Transition Framework, overall, aid granted under sections 2.2 and 2.3 of the previous Temporary Crisis Frameworks and aid granted under the same respective sections of the Temporary Crisis and Transition Framework will not exceed the aid ceilings provided in the respective sections of the Temporary Crisis and Transition Framework at any point in time (see recital (5)).
- (20) 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 and Transition Framework.
- (21) The Commission therefore considers that the notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid scheme in the initial decision and the amending decision.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the scheme, as amended, 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>.

Your request should be sent electronically to the following address:

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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

