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SENSITIVE^{*}: COMP Operations

Subject: State Aid SA.102896 (2022/N) – Italy
TCF: Umbrella scheme for the measures to support undertakings active in the agricultural, forestry, fishery and aquaculture sectors in compliance with the Temporary Crisis Framework

Excellency,

1. PROCEDURE

- (1) By electronic notification of 6 May 2022, Italy notified aid in the form of limited amounts of aid ("TCF: *Regime Quadro riepilogativo delle misure a sostegno delle imprese attive nei settori agricolo, forestale, della pesca e acquacoltura nel rispetto del Quadro temporaneo di crisi*", 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. On 11 May 2022, Italy submitted complementary information.
- (2) Italy 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 1/1958² and to have this Decision adopted and notified in English.

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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).

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

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2. DESCRIPTION OF THE MEASURE

- (3) Italy considers that the Russian aggression against Ukraine, the sanctions imposed by the Union 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, including in the agricultural, forestry and fisheries and aquaculture sectors. Among economic and financial repercussions of the geopolitical crisis resulting from the military aggression of Russia against Ukraine, the sharp increase in production costs affects directly the agricultural sector, primary production as well as processing of agricultural products, forestry, fisheries and aquaculture sectors. The increase risks are particularly accentuated in the short-medium term as a result of the combined impact of cost increases for energy, fertilizers, cereals and vegetable oils. 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 Union or by its international partners, as well as by the economic counter measures taken so far by Russia.
- (4) Italy 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 one of the following forms of aid: direct grants, repayable advances, tax reductions, zeroing or reduction of social security and welfare contributions, debts towards the Public Administration or other payment facilities.

2.2. Legal basis

- (7) The legal basis for the measure is the draft of the Ministerial Decree on the summary framework of measures to support enterprises active in the agricultural, forestry, fisheries and aquaculture sectors pursuant to section 2.1 of the Communication of the European Commission C (2022) 1890 final "Temporary Crisis Framework for aid measures State in support of the economy following Russian aggression against Ukraine"³.

³ Decreto ministeriale sul Quadro riepilogativo delle misure a sostegno delle imprese attive nei settori agricolo, forestale, della pesca e acquacoltura ai sensi della sezione 2.1 della comunicazione della Commissione europea Comunicazione della Commissione C(2022) 1890 final "Quadro temporaneo di crisi per misure di aiuto di Stato a sostegno dell'economia a seguito dell'aggressione della Russia contro l'Ucraina".

2.3. Administration of the measure

- (8) The Ministry of the Agricultural, Food and Forestry Policies is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 1 200 million.
- (10) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure⁴ until no later than 31 December 2022. For aid granted in the form of tax reduction, the tax liability in relation to which that advantage is granted will be arisen no later than 31 December 2022.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are undertakings of all sizes⁵ active in the agricultural, forestry, fishery and aquaculture sectors affected by the current crisis. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries. The estimated number of beneficiaries will be more than 1 000.
- (12) Italy confirms that the aid under the measure is not 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.
- (13) Italy confirms that the measures 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 regulations⁶. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from any such measures.

2.6. Sectoral and regional scope of the measure

- (14) The measure is open to the agricultural, forestry, fishery and aquaculture sectors. The financial sector is excluded. It applies to the whole territory of Italy.

2.7. Basic elements of the measure

- (15) The aim of the measure is to grant financial assistance to the undertakings active in the agricultural (including primary production, processing and marketing of

⁴ As provided in Article 5(3) of the national legal basis.

⁵ 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").

⁶ 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).

agricultural products), forestry, fisheries and aquaculture sectors affected by the loss of income due to the current crisis, in order to mitigate its consequences. The Russian aggression against Ukraine has disrupted the energy and agricultural markets. Russia produces 23% of the world's natural gas and around 40% of the Union's natural gas comes from Russia. Russia is also a major oil exporter. The sanctions have helped to push crude oil (brent) prices up by more than 60% since the beginning of the year, although they are not the only reason why the price of oil is high. The increase in energy prices is the main trigger for food inflation, as Italy confirms. The food supply chain, from on-farm production to transportation, processing, storage and finally retail, is heavily dependent on energy. The current crisis triggered a series of direct and indirect supply shocks to commodity markets. The impact of these shocks depends on the degree of dependence of each country on raw materials of agricultural origin (grains) and on energy from Russia and Ukraine. The current crisis will most likely have serious knock-on effects that will have a great impact on European farmers and, in particular, in Italy. Russia and Ukraine together account for over 30% of world trade in wheat and barley, 17% for maize and over 50% for sunflower oil. A significant share of non-GM soybeans, essential for feed production, also comes from the two warring countries. The trade in these products has been substantially frozen, moreover the situation of the conflict prevents Ukrainian farmers from proceeding with the spring sowing of these crops, with evident negative consequences also in the medium and long term for EU agricultural companies⁷. The Italian authorities explained that the aid will be granted only to undertakings affected by the crisis, both directly and indirectly, with consequences such as the contraction of demand, the interruption of existing contracts and projects, the loss of turnover, difficulties in the supply of raw materials, unavailability or the economic unsustainability of other factors of production⁸.

- (16) The overall nominal value of the direct grants, repayable advances, tax reductions, zeroing or reduction of social security and welfare contributions payables to the Public Administration and other payment facilities, does not exceed EUR 400 000 per undertaking, or EUR 35 000 per undertaking active in the primary production of agricultural products, fishery and aquaculture sectors; all figures are gross, that is, before any deduction of tax or other charges.
- (17) The measure provides for the conversion of aid granted under the measure in the form of repayable advances or other payment facilities into grants, provided that conversion takes place by 30 June 2023 at the latest and that the conditions of section 2.1 of the Temporary Crisis Framework are complied with.
- (18) Italy confirms that where the beneficiaries are undertakings active in the processing and marketing of agricultural products, the aid is conditional on not being partly or entirely passed on to primary producers and is not fixed on the

⁷ For more information about the consequences of the Russian aggression against Ukraine at the agro-food sector in Italy, the Italian authorities have provide as part of the notification file the rapport of the CREA (*Consiglio per la ricerca in agricoltura e l'analisi dell'economia agraria* –Council for research in agriculture and the analysis of the agricultural economy), "War in Ukraine: the effects on the costs and economic results of Italian farms", explaining the consequences of the Russian agreement in the agri-food sector and available at: <https://www.crea.gov.it/web/politiche-e-bioeconomia/-/guerra-in-ucraina-gli-effetti-sui-costi-e-sui-risultati-economici-delle-aziende-agricole-italiane?inheritRedirect=true&redirect=%2Fricerca%3Fq%3Dguerra%2520ucra>

⁸ Article 3(1) of the legal basis.

basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.

- (19) Italy 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.
- (20) Italy 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 717/2014⁹.
- (21) 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, Italy 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 is not exceeded per undertaking.

2.8. Cumulation

- (22) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under the *de minimis* Regulations¹⁰ or the GBER, the “ABER” and the “FIBER”¹¹ provided the provisions and cumulation rules of those Regulations are respected.
- (23) The Italian 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.
- (24) The Italian 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-

⁹ 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).

¹⁰ 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.

¹¹ 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”).

19 outbreak¹² (“COVID-19 Temporary Framework”) provided the respective cumulation rules are respected¹³.

- (25) The Italian 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.
- (26) The Italian 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 points 41(a) and 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

- (27) The Italian 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 fisheries sectors on the comprehensive national State aid website or Commission’s IT tool within 12 months from the moment of granting¹⁴).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (29) 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

¹² 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).

¹³ List of aid measures approved by the Commission under the COVID-19 TF for which cumulation is allowed: SA.57439, SA.57005, SA.57021, SA.57185, SA.57068, SA.57439, SA.57947, SA.59509, SA.56690, SA.56966, SA.61599, SA.100091, SA.100155, SA.58418, SA.62668 and SA.61599.

¹⁴ Referring to information required in Annex III to the GBER, Annex III to the ABER and Annex III to the FIBER. For repayable advances and other forms of aid, the nominal value of the underlying instrument shall be inserted per beneficiary. For tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.

be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

- (30) The measure is imputable to the State, since it is administered by the Ministry of the Agricultural, Food and Forestry Policies, as shown in recital (8), and it is based on the Decree on the summary framework of measures to support enterprises active in the agricultural, forestry, fisheries and aquaculture sectors, as shown in recital (7). It is financed through State resources, since it is financed by public funds, as shown in recital (9).
- (31) The measure confers an advantage on its beneficiaries in the form of direct grants, repayable advances, tax reductions, zeroing or reduction of social security and welfare contributions and other payment facilities, as shown in recital (6). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the agricultural, forestry, fisheries and aquaculture sectors, excluding the financial sector, as shown in recital (11).
- (33) 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.
- (34) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

- (35) 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.
- (36) 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*”.
- (37) 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 Italy. 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.

- (38) The measure aims at facilitating the access of undertakings to liquidity support 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 Italy.
- (39) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measure to compensate for the severe increase production costs, including in natural gas and electricity prices, is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Italian economy. The sectors covered by the measure have a high relevance in the economy of Italy. As mentioned in recital (3), the economic and financial repercussions of the geopolitical crisis following the current crisis and mainly the sharp increase in production costs which, although common to all economic sectors, risks being particularly accentuated in the short-medium term in the agricultural and forestry sectors and in the agricultural processing, fisheries and aquaculture sectors as a result of the combined impact of cost increases for energy, fertilizers, cereals and vegetable oils. Furthermore, 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.
- (40) 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 conditions of the Temporary Crisis Framework. In particular:
- The aid takes the form of direct grants, repayable advances, tax reductions, zeroing or reduction of social security and welfare contributions, debts towards the Public Administration or other payment facilities, as shown in recital (6).
 - The overall nominal value of the direct grants, repayable advances, tax reductions, zeroing or reduction of social security and welfare contributions payables to the Public Administration and other payment facilities, will not exceed EUR 35 000 per undertaking active in the primary production of agricultural products, fishery and aquaculture sectors, or EUR 400 000 per undertaking in all other sectors, as shown in recital (16); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with points 41(a) and 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 Crisis Framework.
 - Aid will be granted under the measure no later than 31 December 2022. For aid in form of tax advantages, the tax liability in relation to which that advantage is granted must have arisen 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, as shown in recital (15). The measure therefore complies with point 41(d) of the Temporary Crisis Framework.
 - Aid granted to undertakings active in the processing and marketing of agricultural products is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned, as shown in recital (18). The measure therefore complies with point 41(e) of the Temporary Crisis Framework.
 - The measure provides for the conversion of aid granted under the measure in the form of repayable advances or other repayable instruments into grants, provided that conversion takes place by 30 June 2023 at the latest and that the conditions of section 2.1 will be complied (recital (17)). The measure therefore complies with point 44 of the Temporary Crisis Framework.
 - Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (19)). 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 (20)). 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, Italy 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 Framework, the overall maximum amount of EUR 35 000 is not exceeded per undertaking (recital (21)). The measure therefore complies with point 43 of the Temporary Crisis Framework.
- (41) The Italian 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)).

- (42) The Italian 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 (12)).
- (43) The Italian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (27)). The Italian 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 are respected (recitals (23) to (26)).
- (44) 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