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**Subject: SA.101025 (2022/N) – Italy – COVID-19: reintroduction of the measures and increase of the aid ceilings related to the measures 3.1 and 3.12 of the Temporary Framework**

Excellency,

## **1. PROCEDURE**

- (1) By electronic notification of 13 December 2021, Italy notified a measure (“the notified measure”) reintroducing the aid scheme *SA.57021- COVID 19 Regime Quadro* as already amended by *SA.58547– Italy COVID-19: amendment to SA.57021 – Regime Quadro – aid to small and micro enterprises*, by *SA.59655- COVID-19: Modifications to SA.57021*, *SA.56966*, *SA.59295*, *SA.58802*, *SA.59255*, *SA.57947*, *SA.57891*, *SA.56786* and *SA.56690*, by *SA.59827– Italy COVID-19: Amendment to SA.57021 – Regime Quadro - addition of aid measure 3.12 of the Temporary Framework* and by *SA.62495 COVID-19: amendment to SA.57021 – Regime Quadro– prolongation of the measures and increase of the aid ceilings related to the measures 3.1 and 3.12 of the Temporary Framework* (altogether “the initial aid scheme”) approved, respectively, by Decision C(2020) 3482 final of 21 May 2020 (the “Regime Quadro Decision”), Decision C(2020) 6341 of 11 September 2020, Decision C(2020) 9121 of 10 December 2020, Decision C(2020) 9300 of 15 December 2020 and Decision C(2021) 2570 of 9 April 2021. The initial scheme expired on 31 December 2021. The notified measure aims at reintroducing the initial scheme, while increasing the aid ceilings of the measures under Sections 3.1 and 3.12 of the Temporary Framework for

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State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).<sup>1</sup>

- (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 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

## **2. DESCRIPTION OF THE NOTIFIED MEASURE**

### **2.1. Basic elements of the notified measure**

- (3) By Communication of 18 November 2021<sup>3</sup>, the Commission amended the Temporary Framework. Among other things, the Commission extended the validity of the Temporary Framework until 30 June 2022 and increased the aid ceilings of various measures set out in that framework.
- (4) Following the aforementioned amendment of the Temporary Framework, the Italian authorities notified the reintroduction of the initial aid scheme for the State aid measures approved under Sections 3.1, 3.2, 3.3, 3.6, 3.7, 3.8, 3.10 and 3.12<sup>4</sup> of the Temporary Framework until 30 June 2022, together with the following amendments:
- (a) to increase the maximum amount of aid approved under Section 3.1 of the Temporary Framework to EUR 2.3 million per undertaking at any given point in time (all figures used must be gross, that is, before any deduction of tax or other charge);
  - (b) to increase the maximum aid amount to undertakings active in the primary production of agricultural products<sup>5</sup> to EUR 290 000 per undertaking and to undertakings in the fishery and aquaculture sectors<sup>6</sup> to EUR 345 000 per undertaking (all figures used must be gross, that is, before any deduction

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<sup>1</sup> 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).

<sup>2</sup> Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

<sup>3</sup> C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

<sup>4</sup> See the amendments proposed with article 195-bis of the Draft-Law No. 2448, implemented with article 20 of the Decree-Law No. 238 of 31 December 2021.

<sup>5</sup> As defined in Article 2(5) of 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.

<sup>6</sup> As defined in Article 2(1) of 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.

- of tax or other charge) under Section 3.1 of the Temporary Framework;  
and
- (c) to increase the maximum amount of aid approved under Section 3.12 of the Temporary Framework to EUR 12 million (all figures used must be gross, that is, before any deduction of tax or other charge).
- (5) The Italian authorities further notify that:
- (a) in line with point 23(a) of the Temporary Framework, aid to undertakings active in the primary production of agricultural products or in the fishery and aquaculture sector mentioned in recital (4)(b) may be granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity provided the total nominal value of such measures does not exceed the overall cap of EUR 345 000 or EUR 290 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charge;
  - (b) in line with the duration of the State aid measures approved under Sections 3.1 and 3.12 in relation respectively to footnotes 20 and 28 and to footnote 84 of the Temporary Framework, aid granted on the basis of schemes approved under Section 3.1 and 3.12 of the Temporary Framework that has been reimbursed before granting new aid shall not be taken into account in determining whether the relevant ceiling is exceeded;
  - (c) in line with point 23ter and 87bis of the Temporary Framework, aid under Sections 3.1 and 3.12 of the Temporary Framework in form of repayable advances, guarantees, loans or other repayable instruments may be converted into other forms of aid such as grants, provided the conversion takes place by 30 June 2023 at the latest and the conditions respectively of Section 3.1. and Section 3.12 are complied with;
  - (d) in line with point 87 (a) under Section 3.12 of the Temporary Framework, aid shall be granted no later than 30 June 2022 and may cover uncovered fixed costs incurred during the period between 1 March 2020 and 30 June 2022 ('the eligible period');
  - (e) in line with footnote 81 under Section 3.12 of the Temporary Framework, the reference period is a period in 2019 irrespective of whether the eligible period is in 2020, 2021 or 2022;
  - (f) in line with footnote 24 under Section 3.1 of the Temporary Framework, for aid granted in the form of a tax advantage, the tax liability in relation to which that advantage is granted must have arisen no later than 30 June 2022.
- (6) The initial estimated budget in *SA.57021- COVID 19 Regime Quadro* was EUR 9 billion. Then the Italian authorities have provided an additional estimated budget of approximately EUR 1 billion for the amendment in *SA.59827 – Italy COVID-19: Amendment to SA.57021 – Regime Quadro - addition of aid measure 3.12 of the Temporary Framework* and EUR 2.5 billion for the amendment in *SA.62495 COVID-19: amendment to SA.57021 – Regime Quadro– prolongation of the measures and increase of the aid ceilings related to the measures 3.1 and 3.12 of*

*the Temporary Framework*. For the notified measure, the Italian authorities have increased the overall budget with a further EUR 2.5 billion, the total estimated budget being approximately EUR 15 billion.

- (7) All other conditions of the initial aid scheme remain unchanged and as described in the Regime Quadro Decision, as modified by SA.58547, SA.59655, SA.59827 and by SA.62495, referred to in recital (1). The Italian authorities confirmed that the commitments provided for the purposes of the initial scheme are valid in their entirety also for the measure.

## **2.2. Legal basis**

- (8) The legal basis of the notified measure is the draft Law No. 2448 aiming at introducing article 195-bis “Modifiche al regime quadro della disciplina degli aiuti”, which modifies articles 54, 55, 56, 60, 60-bis and 61 of the Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020.<sup>7</sup> Part of aforementioned draft law has been approved with Article 20 of the Decree-Law No. 238 of 31 December 2021.
- (9) The Italian authorities confirmed that aid may be granted under the notified measure only as from the notification of the Commission’s approval.

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

- (10) By notifying the measure before putting it effect (recitals (8) and (9)), the Commission considers that the Italian authorities have respected their obligation under Article 108(3) TFEU.

### **3.2. Existence of State aid**

- (11) 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.
- (12) Recitals (31) to (36) of the Regime Quadro Decision establish that the measures under the initial aid scheme constitute State aid within the meaning of Article 107(1) TFEU. The notified measure, which includes the amendments referred to in recital (4) and (5) to the initial aid scheme, did not affect this conclusion. The Commission therefore refers to the respective assessment of the aforementioned decision and concludes that the notified measure, constitutes State aid in the meaning of Article 107(1) TFEU.

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<sup>7</sup> That was the legal basis of the measures authorised by the Regime Quadro Decision.

### 3.3. Compatibility

- (13) The Commission assessed the initial aid scheme on the basis of Articles 107(3)(b) and 107(3)(c) TFEU and concluded that it complied with the compatibility conditions set out in the Temporary Framework.
- (14) The Commission refers to its compatibility analysis set out in recitals (37) to (58) of the Regime Quadro Decision. As regards the compatibility of the aid measure under section 3.12 of the Temporary Framework approved by Decision C(2020) 9300 of 15 December 2020, the Commission refers to its analysis set out in recitals (29) to (33) of that Decision.
- (15) As regards the amendments to the initial aid scheme which are part of the notified measure:
  - (a) The duration, mentioned in recital (4), of the State aid measures approved under Sections 3.1, 3.2, 3.3, 3.6, 3.7, 3.8, 3.10 and 3.12 of the Temporary Framework until 30 June 2022 complies, respectively, with: point (22)d, point (25)c, point 27(c), point 35(a), point 37(b), point 39(b) point 43 (c) and point 87(a) of the Temporary Framework.
  - (b) The aid ceilings of EUR 2.3 million per undertaking mentioned in recital (4)(a) and EUR 345 000 per undertaking active in the fishery and aquaculture sector or EUR 290 000 per undertaking active in the primary production of agricultural products, mentioned in recital (4)(b) (all figures used must be gross, that is, before any deduction of tax or other charge), for measures under Section 3.1 of the Temporary Framework comply respectively with point 22(a) and point 23(a) of that framework.
  - (c) The aid ceiling of EUR 12 million scheme, mentioned in recital (4)(c) (all figures used must be gross, that is, before any deduction of tax or other charge), for the measure under Section 3.12 of the Temporary Framework for the initial aid scheme, comply with point 87(a) of the Temporary Framework.
  - (d) The amendment, mentioned in recital (5)(a), that aid to undertakings active in the primary production of agricultural products or in the fishery and aquaculture sector, mentioned in recital (4)(b), may be granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity provided the total nominal value of such measures does not exceed the overall cap of EUR 290 000 or EUR 345 000 per undertaking and that all figures used must be gross, that is, before any deduction of tax or other charge, complies with point 23 (a) of the Temporary Framework.
  - (e) The amendment that aid granted on the basis of measures approved under Section 3.1 and 3.12 of the Temporary Framework that has been reimbursed before granting new aid shall not be taken into account in determining whether the relevant ceiling is exceeded, mentioned in recital (5)(b), is in line with footnotes 20, 28 and 84 of the Temporary Framework.

- (f) The amendment, mentioned in recital (5)(c), that aid granted in form of repayable advances, guarantees, loans or other repayable instruments approved under Section 3.1 and 3.12 of the Temporary Framework may be converted into other forms of aid such as grants, provided the conversion takes place by 30 June 2023 at the latest and the conditions respectively in Section 3.1 or in Section 3.12 are complied with, is in line with point 87 bis of the Temporary Framework.
  - (g) The amendment, mentioned in recital (5)(d), that aid under Section 3.12 of the Temporary Framework is granted no later than 30 June 2022 and covers uncovered fixed costs incurred during the period between 1 March 2020 and 30 June 2022, is in line with point 87 (a) under Section 3.12 of the Temporary Framework.
  - (h) The amendment, mentioned in recital (5)(e), that the reference period under Section 3.12 of the Temporary Framework is a period in 2019 irrespective of whether the eligible period is in 2020, 2021 or 2022; in line with footnote 81 of the Temporary Framework.
  - (i) The amendment, mentioned in recital (5)(f), that if the aid is granted in the form of a tax advantage, the tax liability in relation to which that advantage is granted must have arisen no later than 30 June 2022 is in line with footnote 24 of the Temporary Framework.
- (16) Furthermore, the increase of the budget of the notified measure, mentioned in recital (6), does not alter the Commission's conclusions on the compatibility of that scheme, as amended, set out in the Regime Quadro Decision, as amended. The notified measure complies with point 22(b) of the Temporary Framework, as the aid is granted based on a scheme with an estimated budget.
  - (17) All other elements of the initial scheme and all commitments provided for the purpose of the initial scheme remain unchanged (recital (7)).
  - (18) The Commission considers that a reintroduction of the initial aid scheme is appropriate to ensure that national support measures effectively help affected undertakings during the COVID-19 pandemic.
  - (19) As regards the notified measure related to Sections 3.1, 3.2, 3.3, 3.10 and 3.12 of the Temporary Framework, the Commission 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.
  - (20) As regards the notified measure related to sections 3.6, 3.7 and 3.8 of the Temporary Framework, the Commission has taken due consideration of the positive effects of the measure tackling the health crisis provoked by the COVID-19 outbreak when balancing those effects against the potential negative effects of the measure on the internal market. The Commission concludes that those positive effects of the notified measure outweigh the potential negative effects on competition and trade. Therefore, the notified measure does not alter the Commission's conclusions on the compatibility of the initial aid scheme, as amended.

#### **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the notified measure on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) and Article 107(3)(c) 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