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Subject: State Aid SA.58137 (2020/N) – France
COVID-19: Modification to State aid measures SA.56709, SA.56985, SA.56868, SA.57219, SA.57367 and SA.57695

Excellency,

1. PROCEDURE

- (1) By electronic notification of 22 July 2020, France notified a modification concerning the following State aid schemes (“the existing aid schemes”):
- (a) SA.56709 – COVID-19: Plan de sécurisation du financement des entreprises¹;
 - (b) SA.56985 – COVID-19: Régime cadre temporaire pour le soutien aux entreprises²;
 - (c) SA.56868 – COVID-19: Garanties des préfinancements des entreprises françaises exportatrices³;
 - (d) SA.57219 – COVID-19: Garanties des cautions⁴;

¹ Commission Decision of 21 March 2020 – SA.56709 (2020/N).

² Commission Decision of 20 April 2020 – SA.56985 (2020/N).

³ Commission Decision of 24 April 2020 – SA.56868 (2020/N).

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(e) SA.57367 – COVID-19: Aid for COVID-19 relevant R&D projects, investment into relevant testing and upscaling infrastructures, and investment into COVID-19 relevant production capacities⁵;

(f) SA.57695 – COVID-19: Régime d'aides sous la forme de prêts publics subordonnés⁶.

(2) France 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 1/1958⁷ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) The Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”)⁸, provides that aid may be granted to micro or small enterprises (within the meaning of Annex I of the General Block Exemption Regulation (“GBER”)⁹, Annex I of the Agricultural Block Exemption Regulation (“ABER”)¹⁰ and Annex I of the Fisheries Block Exemption Regulation (“FIBER”)¹¹) that were already in difficulty on 31 December 2019, provided that at the moment of the granting, these enterprises are not subject to collective insolvency procedure

⁴ Commission Decision of 11 May 2020 – SA.57219 (2020/N).

⁵ Commission Decision of 5 June 2020, SA.57367 (2020/N).

⁶ Commission Decision of 30 June 2020, SA.57695 (2020/N).

⁷ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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 Communication from the Commission C(2020) 2215 final on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3 and by Communication from the Commission C(2020) 4509 final on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

⁹ As defined in Article 2(18) of 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.

¹⁰ As defined in Article 2(14) of Commission Regulation (EU) 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, OJ L 193, 1.7.2014, p. 1

¹¹ As defined in Article 3(5) of 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, OJ L 369, 24.12.2014, p. 37.

under national law, and that they have not received rescue aid or restructuring aid.¹²

- (4) France plans to modify the existing aid schemes mentioned in recital (1) by allowing access to those schemes also to micro and small enterprises that comply with the requirements of the amendment to the Temporary Framework mentioned in recital (3).
- (5) France confirms that no further modifications are proposed to the existing aid schemes.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (6) By notifying the modification to the existing aid schemes before putting them into effect, the French authorities have respected their obligation under Article 108(3) TFEU.

3.2. Existence of State aid

- (7) 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.
- (8) The aid measures concerned constitute State aid in the meaning of Article 107(1) TFEU for the reasons set out in the decisions authorising the existing aid schemes referred to in recital (1) and that assessment applies to the notified modification as well.

3.3. Compatibility

- (9) The Commission assessed the initial notifications on the basis of Article 107(3)(b) and 107(3)(c) of the TFEU, for case:
 - (a) SA. 56709: assessment based on Article 107(3)(b) TFEU, Section 3.2 of the Temporary Framework;
 - (b) SA.56985: assessment based on Article 107(3)(b) TFEU, Section 3.1, 3.2 and 3.3 of the Temporary Framework;
 - (c) SA.56868: assessment based on Article 107(3)(b) TFEU, Section 3.2 of the Temporary Framework;
 - (d) SA.57219: assessment based directly on Article 107(3)(b) TFEU;

¹² Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure and if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

(e) SA.57367: assessment based on Article 107(3)(c) Section 3.6, 3.7 and 3.8 of the Temporary Framework;

(f) SA.57695: assessment based on Article 107(3)(b)Section 3.3 of the Temporary Framework;

and concluded that the existing aid schemes were compliant with the respective compatibility conditions.

- (10) The Commission refers to its analysis of compatibility of aid as set out in the initial decisions referred to in recital (1)¹³.
- (11) As explained in the Temporary Framework, the Commission considers that micro and small undertakings have been particularly affected during the current crisis by the liquidity shortage caused by the economic impact of the COVID-19 outbreak. The unprecedented supply and demand shock due to the crisis has also exacerbated the difficulties such undertakings face to access financing on the market in general, as compared to medium-sized and large enterprises. Given their limited size and limited involvement in cross-border transactions, it is therefore less likely that State aid granted to these enterprises would distort competition in the Internal Market and affect intra-EU trade than State aid granted to medium-sized and large companies. This holds true even if these enterprises were to fall under the category of an undertaking in financial difficulty already on 31 December 2019, as long as they are not subject to a collective insolvency procedure under national law and have not received rescue aid (which has not been repaid) or restructuring aid (and are still subject to a restructuring plan).
- (12) In view of the above and of points: 22(c)bis as regards SA.56985; 25(h)bis as regards SA.56709, SA.56985 and SA.56868; 27(g)bis as regards SA.56985 and 57695; 35(h)bis, 37(k)bis and 39(i)bis as regards SA.57367 of the Temporary Framework, the Commission considers that the modification to the existing aid schemes meets the conditions for the compatibility of State aid as laid down in the legal bases referred to in recital (9) and does not affect the compatibility analysis of the existing aid schemes as set out in the initial decisions mentioned in recital (1).
- (13) Furthermore, SA.57219 was not directly approved under the Temporary Framework (see recital 53 of the decision), however the scheme pursues the same objective as the guarantee on loans covered by section 3.2 of the Temporary Framework. In addition, the measure was designed to meet the requirements of Section 3.2 of the Temporary Framework (used as a reference). Therefore the Commission considered it appropriate to apply, as a reference, Section 3.2 *mutatis mutandis* to case SA.57219, while taking account of its specificities. The reasoning set out in recital 11 also remains true for this case and does not affect the compatibility analysis as set out in the initial decision SA.57219.

¹³ For SA.56709 see recitals 52 to 58 included; SA.56985 recitals 50 to 62; SA.56868 recitals 40 to 46; SA.57219 recitals 44 to 61; SA.57367 recitals 61 to 72 and SA.57695 recitals 43 to 49.

4. CONCLUSION

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

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,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION