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*UNTIL THE ADOPTION*

Obtenu par CONTEXTE

**COMMUNICATION FROM THE COMMISSION**

**Amendment to the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia**

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## 1. INTRODUCTION

1. On 9 March 2023, the Commission adopted its Communication on 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]

2. In the Temporary Crisis and Transition Framework, the Commission considered that the aggression against Ukraine by Russia and its direct and indirect effects, including the sanctions imposed by the European Union (EU) or its international partners and the counter measures taken, for example by Russia (the "current crisis"), had 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. Those effects taken together had caused a serious disturbance of the economy in all Member States across a wide range of economic sectors. On that basis, the Commission considered that it was appropriate to lay down the criteria for the assessment of State aid measures that Member States may take to remedy that serious disturbance with exceptional measures described in the Temporary Crisis and Transition Framework.

3. Although the aggression against Ukraine by Russia has not ended, the economic situation in the Union has shown resilience in the face of the formidable shocks it has endured. The Commission's Summer Forecast[2] notes that the EU economy is expected to grow, albeit with reduced momentum compared to earlier forecasts (accordingly, the growth rates expected still in spring 2023 have been corrected downwards). The general situation in the energy markets has improved since 2022, gas and electricity prices have fallen, and the risk for security of supply has decreased, also thanks to the multiple initiatives put in place by the Union to fight the energy crisis.

4. While general risks for energy supplies still exist, the Commission considers that the exceptional measures set out in the Temporary Crisis and Transition Framework based on Article 107(3)(b) TFEU to remedy a serious disturbance can be phased out, also taking into account the risk of distortions resulting from these exceptional measures. In particular, the Commission has decided not to amend the phasing out of sections 2.2, 2.3 and 2.7 of the Temporary Crisis and Transition Framework which will expire on 31 December 2023.

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[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).

[2] European Economic Forecast, Summer 2023 (Interim), European Economy Institutional Paper 255, available at: https://economy-finance.ec.europa.eu/system/files/2023-09/ip255_en.pdf

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5. Nevertheless, the Summer Forecast notes that the current crisis continues to pose risks and remains a source of uncertainty. This is particularly relevant as regards the development of energy supplies and prices during the winter heating period. Recent episodes of market volatility, for example following the developments in the Middle East and their potential effects on global energy markets, also show that markets are still fragile and the fear of scarcity may trigger large reactions with serious repercussions on prices. To enable Member States to maintain existing support measures during that period so as to address those specific risks and their impact on the economies of the Member States, the Commission has decided to delay the phase-out of sections 2.1 and 2.4 of the Temporary Crisis and Transition Framework until 31 March 2024, as well as to permit a proportionate increase in the maximum aid amount under section 2.1. Doing so will allow Member States in this period of heightened uncertainty and market volatility to be prepared to provide support to affected undertakings quickly if such aid is required.

6. While the Commission considers that a prolongation of existing schemes may be required, there should generally not be a need for entirely new support measures covering the short period until 31 March 2024. If Member States nevertheless consider that further aid schemes under sections 2.1 and/or 2.4 of the Temporary Crisis and Transition Framework are required, the Commission will pay particular attention to the existing requirements laid down in these sections, including point 61(d) that requires the Member State concerned to provide a justification that the aid will only benefit undertakings affected by the current crisis.

7. The Commission considers that there is no need to review the sections of the Temporary Crisis and Transition Framework aimed at supporting the transition to a net-zero economy (i.e., its sections 2.5, 2.6 and 2.8), which are based on Article 107(3)(c) TFEU, as they will remain in place until 31 December 2025. These sections are therefore unaffected by this amendment.

## 2. AMENDMENTS TO THE TEMPORARY CRISIS AND TRANSITION FRAMEWORK

8. Point 61(a) is replaced by the following:

‘a. The overall aid does not exceed EUR 2.25 million per undertaking per Member State at any given point in time (*). The aid 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 2.25 million per undertaking per Member State; all figures used must be gross, that is, before any deduction of tax or other charges;

(*) Aid granted on the basis of schemes approved under this section which has been reimbursed before granting new aid under this section will not be taken into account in determining whether the relevant ceiling is exceeded.

(**) When aid is granted in form of guarantees under this section, the additional conditions in point 67(i) apply.

(***) When aid is granted in form of loans under this section, the additional conditions in point 70(g) apply.’

9. Point 61(c) is replaced by the following:

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‘c. the aid is granted by 31 March 2024 (*);

(*) 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 31 March 2024.’

10. Point 62(a) is replaced by the following:

‘a. The overall aid does not at any point in time exceed EUR 280 000 per undertaking active in the primary production of agricultural products per Member State and EUR 335 000 per undertaking active in the fishery and aquaculture sectors per Member State; (*) the aid 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 relevant cap of EUR 280 000 or EUR 335 000 per undertaking per Member State; all figures used must be gross, that is, before any deduction of tax or other charge;

(*) Aid granted on the basis of schemes approved under this section which has been reimbursed before granting new aid under this section will not be taken into account in determining whether the relevant ceiling is exceeded.

(**) When aid is granted in form of guarantees under this section, the additional conditions in point 67(i) apply.

(***) When aid is granted in form of loans under this section, the additional conditions in point 70(g) apply.’

11. Point 63 is replaced by the following:

‘(63) Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 61(a) and 62(a), the Member State concerned must 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 2.25 million is not exceeded per undertaking per Member State. Where an undertaking is active exclusively in the sectors covered by point 62(a) the overall maximum amount of EUR 335 000 should not be exceeded per undertaking per Member State.’

12. Point 72(a) is replaced by the following:

‘a. The aid is granted by 31 March 2024 (*);

(*) By way of derogation, when the aid is granted only after an ex post verification of the supporting documentation of the beneficiary and the Member State decides not to include the possibility to grant advance payments in line with point 74, aid may be granted until 30 September 2024 provided the eligible period as defined in point 72(e) is respected.’

13. Point 72(b) is replaced by the following:

‘b. The aid 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 applicable aid intensity and aid ceilings. All figures used must be gross, that is, before any deduction of tax or other charge;

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(*) 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 31 March 2024.

(**) When aid is granted in form of guarantees under this section, the additional conditions in point 67(i) apply.

(***) When aid is granted in form of loans under this section, the additional conditions in point 70(g) apply.

14. Point 72(c) is replaced by the following:

'c. Aid granted in the 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 September 2024;'

15. Within point 72(e), the definition of 't' is replaced by the following:

't is a given month, or a period of several consecutive months, between 1 February 2022 and 31 March 2024 at the latest ('eligible period')'

16. The following point 73(e) is introduced:

'e. For aid granted under points 73(a), 73(b), 73(c) and 73(d) in relation to eligible costs incurred between 1 January 2024 and 31 March 2024, the EBITDA in the eligible period may exceptionally be calculated on the basis of the calendar year ending on 31 December 2023.'

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