



EUROPEAN COMMISSION

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**SENSITIVE\***: *COMP Operations*

**Subject: State Aid SA.110606 (2023/N), SA.110726 (2023/N), SA.110741 (2023/N)  
– Italy  
TCTF: Amendments to SA.105004, SA.107640, SA.108571**

Excellency,

## 1. PROCEDURE

- (1) By electronic notifications of 6 December 2023, 11 December 2023, 12 December 2023, Italy notified amendments (the ‘notified amendments’) to the following existing aid schemes (the ‘existing aid schemes’) which the Commission approved under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia <sup>(1)</sup> or 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’) <sup>(2)</sup> by decisions in cases (together the ‘initial decisions’):

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<sup>(1)</sup> 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), as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1) and replaced by the Temporary Crisis Framework adopted on 28 October 2022 (OJ C 426, 9.11.2022, p. 1).

<sup>(2)</sup> 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), as amended by Commission Communication C(2023)8045 (OJ C1188, 21.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1188/oj>).

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ITALIA

- (a) case SA.105004 (2022/N) – Italy – TCF: Framework scheme FVG (Re-introduction of State aid SA.102721) <sup>(3)</sup> (a re-introduction of SA.102721 (2022/N) – Italy – TCF: Framework scheme Friuli Venezia Giulia <sup>(4)</sup>);
  - (b) case SA.107640 (2023/N) – Italy – TCTF: Sicilian Energy Bonus <sup>(5)</sup>.
  - (c) case SA.108571 (2023/N) TCTF - Italy - Reintroduction of the incentive measure SA.103752 - Emergency Support Scheme for Haulage Operators using liquefied natural gas ('LNG') as fuel <sup>(6)</sup> (a re-introduction of SA.103752 (2022/N) – TCF – Italy: Emergency Support Scheme for Haulage Operators using liquefied natural gas (LNG) as fuel <sup>(7)</sup>);
- (2) Italy submitted additional information on 13 December 2023.
- (3) 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>(8)</sup> and to have this Decision adopted and notified in English.

## 2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (4) The objective of the existing aid schemes is 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 and its direct and indirect effects, including the sanctions imposed and the counter-measures taken, for example by Russia.
- (5) Italy proposes to amend the existing aid schemes as follows:
- (a) to prolong the duration of the existing aid schemes SA.105004 for aid in the form of limited amounts of aid and aid for additional costs due to exceptionally severe increases in natural gas and electricity prices <sup>(9)</sup>, SA.107640 and SA.108571 from 31 December 2023 to 30 June 2024 <sup>(10)</sup>;

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<sup>(3)</sup> Commission Decision C(2023) 890 final of 2 February 2023 in case SA.105004 (OJ C 69, 24.2.2023, p. 1).

<sup>(4)</sup> Commission Decision C(2022) 6104 final of 22 August 2022 in case SA.102721 (OJ C 490, 22.12.2022, p. 1).

<sup>(5)</sup> Commission Decision C(2023) 5507 final of 9 August 2023 in case SA.107640 (OJ C, 04.10.2023, ELI: <http://data.europa.eu/eli/C/2023/91/oj>).

<sup>(6)</sup> Commission Decision C(2023) 6966 final of 12 October 2023 in case SA.108571 (not yet published).

<sup>(7)</sup> Commission Decision C(2022) 7356 final of 13 October 2022 in case SA.103752 (OJ C 69, 24.2.2023, p. 1).

<sup>(8)</sup> Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

<sup>(9)</sup> For the avoidance of doubt, the liquidity support in the form of guarantees and the liquidity support in the form subsidised loans are not prolonged and will be phased out by 31 December 2023.

<sup>(10)</sup> For the existing aid schemes SA.105004 and SA.108571, this also implies that in the case of aid in the form of tax advantage, the underlying tax liability must arise by 31 June 2024. For the existing aid scheme SA.108571, the aid is in the form of a tax credit which may be used to offset amounts due to

- (b) for the existing aid scheme SA.105004 for aid for additional costs due to exceptionally severe increases in natural gas and electricity prices to allow the ‘eligible period’ to last until 30 June 2024, pursuant to point 72(e) of the Temporary Crisis and Transition Framework;
  - (c) for the existing aid scheme SA.105004 for aid for additional costs due to exceptionally severe increases in natural gas and electricity prices to prolong the period during which the conversion option can be exercised pursuant to point 72(c) of the Temporary Crisis and Transition Framework from 30 June 2024 to 31 December 2024;
  - (d) for the existing aid scheme SA.105004 for aid for additional costs due to exceptionally severe increases in natural gas and electricity prices to extend the period during which aid may be granted after an ex-post verification pursuant to footnote 91 of the Temporary Crisis and Transition Framework from 31 March 2024 to 31 December 2024;
  - (e) for the existing aid scheme SA.105004 for aid in the form of limited amounts of aid to increase the overall maximum aid amount per undertaking that may be granted under the existing aid scheme SA.105004 from EUR 2 million to EUR 2.25 million pursuant to point 61(a) of the Temporary Crisis and Transition Framework; and
  - (f) to amend the existing aid scheme SA.105004 for aid for additional costs due to exceptionally severe increases in natural gas and electricity prices by allowing to calculate the EBITDA <sup>(11)</sup> required to verify eligibility on the basis of the calendar year ending on 31 December 2023 for eligible costs incurred between 1 January 2024 and 30 June 2024, pursuant to point 73(e) of the Temporary Crisis and Transition Framework.
- (6) Apart from the notified amendments, Italy confirms that no further amendments are proposed to the existing aid schemes and that all other conditions of these schemes remain unaltered.
- (7) The Italian authorities indicate that the national legal bases for the existing aid schemes remain the same legal bases listed in the initial decisions, which will reflect the notified amendments. <sup>(12)</sup>
- (8) Aid may be granted under the existing aid schemes, as amended, as from the notification of the Commission’s decision approving the notified amendments.

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the State, local authorities, social security and insurance institutions. See footnote 4 and recital (28)(b) of the initial decision in case SA.108571 for more details for that existing aid scheme.

<sup>(11)</sup> EBITDA means earnings before interest, taxes, depreciation, and amortisation, excluding one off impairments.

<sup>(12)</sup> See recital (10) of the initial decision in case SA.105004; recitals (11) and (12) of the initial decision in case SA.107640; recital (13) of the initial decision in case SA.108571.

### **3. ASSESSMENT**

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

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

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

- (10) 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 be liable to affect trade between Member States.
- (11) The existing aid schemes constitute State aid within the meaning of Article 107(1) TFEU for the reasons set out in the initial decisions<sup>(13)</sup>. The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decisions and concludes that the existing aid schemes, as amended, constitute State aid within the meaning of Article 107(1) TFEU.

#### **3.3. Compatibility**

- (12) The existing aid schemes are compatible with the internal market pursuant to Article 107(3), point (b) TFEU, since they meet the conditions of section 1 and section 2.1 (SA.107640), section 1 and section 2.4 (SA.108571), and section 1, section 2.1 and section 2.4 (SA.105004) of the Temporary Crisis and Transition Framework for the reasons set out in the initial decisions.<sup>(14)</sup> The Commission therefore refers to the respective assessment of the initial decisions.
- (13) The notified amendments do not affect the conclusion that the existing aid schemes are compatible with the internal market pursuant to Article 107(3), point (b) TFEU. In particular:
- (a) The aid under the existing aid schemes SA.105004 for aid in the form of limited amounts of aid and aid for additional costs due to exceptionally severe increases in natural gas and electricity prices, SA.107640 and SA.108571 will be granted no later than 30 June 2024 (recital (5)(a)). The notified amendments thus comply with point 61(c) and point 72(a) of the Temporary Crisis and Transition Framework. For aid under the existing aid schemes SA.105004 and SA.108571 in the form of a tax advantage the underlying tax liability must arise by 31 June 2024 (footnote 10). The notified amendments thus comply with footnotes 66 and 92 of the Temporary Crisis and Transition Framework.
  - (b) The existing aid scheme SA.105004 will allow for aid for additional costs due to exceptionally severe increases in natural gas and electricity prices

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<sup>(13)</sup> See recitals (28) and (29) of the initial decision in case SA.105004, recitals (44) to (49) of the initial decision in case SA.107640, recitals (16) to (21) of the initial decision in case SA.108571.

<sup>(14)</sup> See recitals (30) to (38) of the initial decision in case SA.105004, recitals (50) to (61) of the initial decision in case SA.107640, recitals (22) to (36) of the initial decision in case SA.108571.

by way of derogation to grant aid until 31 December 2024 only after an ex-post verification (recital (5)(d)). The notified amendments thus comply with footnote 91 of the Temporary Crisis and Transition Framework.

- (c) The existing aid scheme SA.105004 for aid for additional costs due to exceptionally severe increases in natural gas and electricity prices will allow to convert aid granted under section 2.4 of the Temporary Crisis and Transition Framework in other forms of aid until 31 December 2024 (recital (5)(c)). The notified amendments thus comply with point 72(c) of the Temporary Crisis and Transition Framework.
  - (d) The maximum aid amount per undertaking under the existing aid scheme SA.105004 for aid in the form of limited amounts of aid will be increased to EUR 2.25 million (recital (5)(e)). The notified amendments thus comply with point 61(a) of the Temporary Crisis and Transition Framework.
  - (e) The existing aid scheme SA.105004 for aid for additional costs due to exceptionally severe increases in natural gas and electricity prices will allow the eligible period to last until 30 June 2024 (recital (5)(b)). The notified amendment thus complies with point 72(e) of the Temporary Crisis and Transition Framework.
  - (f) The existing aid scheme SA.105004 for aid for additional costs due to exceptionally severe increases in natural gas and electricity prices will include the option to exceptionally calculate the EBITDA in the eligible period between 1 January 2024 and 30 June 2024 on the basis of the calendar year ending on 31 December 2023 (recital (5)(f)). The notified amendment thus complies with point 73(e) of the Temporary Crisis and Transition Framework.
- (14) Apart from the notified amendments, Italy confirms that no further amendments are proposed to the existing aid schemes and that all other conditions of these schemes remain unaltered.
- (15) 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), point (b) TFEU, since they meet all the relevant conditions of the Temporary Crisis and Transition Framework. The Commission therefore considers that the notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid schemes in the initial decisions.

#### 4. CONCLUSION

The Commission has accordingly decided not to raise objections to the schemes, as amended, on the grounds that they are compatible with the internal market pursuant to Article 107(3), point (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: <https://competition-cases.ec.europa.eu/search?caseInstrument=SA>.

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President

