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Subject: State Aid SA.107127 (2023/N) – Lithuania
TCTF: Reintroduction of the scheme SA.104975 (2022/N) “TCF: Temporary State Aid for apple producers”

Excellency,

1. PROCEDURE

- (1) By electronic notification of 13 April 2023, Lithuania notified under the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia¹, a measure reintroducing the State aid scheme SA.104975 (2022/N) “TCF: Temporary State Aid for apple producers” (the “initial scheme”) which the Commission had already approved by Decision C(2022) 9450 final of 12 December 2022 (the “initial decision”). The initial scheme expired on 31 December 2022. On 17 April 2023, Lithuania submitted complementary information.
- (2) Lithuania exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

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). This Temporary Crisis and Transition Framework replaces the Temporary Crisis Framework adopted on 28 October 2022 (OJ C 426, 9.11.2022, p. 1) (‘Temporary Crisis Framework’), which had already replaced the previous Temporary Crisis Framework adopted on 23 March 2022 (OJ C 131I, 24.3.2022, p. 1), as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1). The Temporary Crisis Framework was withdrawn with effect from 9 March 2023.

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Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) The objective of the initial scheme mentioned in recital (15) of the initial decision, was to preserve the viability of the apple production sector against disruptions in the market for apples, intended for processing, due to Russia's military aggression against Ukraine.
- (4) Lithuania intends to reintroduce the initial scheme until 30 June 2023 without any increase of its budget (EUR 2 million).
- (5) Lithuania confirms that all the other elements of the initial scheme and that all other conditions of that scheme remain unaltered. Lithuania also confirms that for aid granted under Section 2.1 of the previous Temporary Crisis Framework and the Temporary Crisis and Transition Framework, the aid ceilings provided in the respective section of the Temporary Crisis and Transition Framework are respected at any point in time.
- (6) The legal basis for the measure is the draft amendment of the Order of the Minister of Agriculture of the Republic of Lithuania of 28 November 2022 No 3D-734 “On the Approval of the Rules for the Provision of Temporary State Aid for the Horticulture Sector”³.
- (7) In any event the aid may be granted under the measure no later than 30 June 2023.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (9) 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.

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

³ *Lietuvos Respublikos žemės ūkio ministro 2022 m. lapkričio 28 d. įsakymas Nr. 3D-734 „Dėl laikinosios valstybės pagalbos sodininkystės sektoriui teikimo taisyklių patvirtinimo“.*

- (10) The initial scheme constituted State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (27) to (32) of the initial decision. The measure equally does not affect that conclusion. The Commission therefore refers to the assessment of the initial decision and concludes that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (11) The initial scheme was compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it met the conditions of Section 1 and Section 2.1 of the Temporary Crisis Framework for the reasons set out in recitals (33) to (42) of the initial decision. The Commission therefore refers to the respective assessment of the initial decision. The Commission notes that that assessment remains valid although the Temporary Crisis Framework has in the meantime been replaced by the Temporary Crisis and Transition Framework, inasmuch as the conditions of sections 1 and 2.1 of the previous Temporary Crisis Framework that are relevant for the initial decision have not been modified substantively in the Temporary Crisis and Transition Framework.
- (12) The notified measure does not affect the conclusion that the initial scheme was compatible with the internal market pursuant to Article 107(3)(b) TFEU. In particular, as the prolongation of the duration of the measure until 30 June 2023 (recital (4)) is in conformity with the requirements of point 61(c) of the Temporary Crisis and Transition Framework, the Commission considers that the measure does not affect the assessment of the compatibility of the initial scheme with the internal market, as carried out in the initial decision.
- (13) Lithuania confirms that no further modifications are proposed to the initial scheme and that all other conditions of that scheme remain unaltered (recital (5)).
- (14) Lithuania confirms that, in accordance with point 95 of the Temporary Crisis and Transition Framework, the overall aid granted under Section 2.1 of the previous Temporary Crisis Framework and the Temporary Crisis and Transition Framework will not exceed the aid ceilings provided in the respective section of the Temporary Crisis and Transition Framework at any point in time (see recital (5)).
- (15) 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 and Transition Framework. The Commission therefore considers that the measure does not alter the Commission's conclusion on the compatibility of the initial scheme in the initial decision.

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