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Subject: **State aid SA.57035 (2020/N) - Portugal – COVID-19 - Support to R&D projects, testing infrastructures and production of COVID-19 related products**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 15 April 2020, Portugal notified two aid schemes covering respectively, i) support to R&D projects, testing and upscaling infrastructures, and ii) support for production of COVID 19 related products and services, under article 107(3)(c) of the Treaty on the Functioning of the European Union (“TFEU”), as interpreted respectively by section 3.6, 3.7 and 3.8 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 health crisis (“the Temporary Framework”) as amended.¹
- (2) The Portuguese authorities confirmed that the notification does not contain confidential information.
- (3) Portugal 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 1/1958,² and to have this Decision notified and adopted in English.

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9., as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 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. 1–9.

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

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2. DESCRIPTION OF THE MEASURE

- (4) The measure aims at supporting research and development activities, and testing and upscaling infrastructures that contribute to develop COVID-19 relevant products, as well as to support the production of products needed to respond to the COVID-19 outbreak. According to Portugal, given the sanitary crisis and the shortage of certain related products, it is crucial that the State can provide incentives to companies to direct their activities to research and/or production of certain products, which are crucial in the current circumstances. Portugal considers that the measure contributes to address the public health crisis.
- (5) The measure is expressly based on Article 107(3)(c) of the TFEU, as interpreted by the Temporary Framework.

2.1. Nature and form of aid

- (6) The measure provides aid in the form of direct grants for Covid-19 relevant R&D, investment aid for testing and upscaling infrastructures and support for the production of COVID-19 relevant products. The measure does not include loss cover guarantees for the production of COVID-19 relevant products.

2.2. National legal basis

- (7) The legal basis for the measure is laid down in two draft Regulations to be approved by Order (*Portaria*) that will be adopted after the Commission has adopted a formal decision authorising the measure:
- Specific Regulation to support research and development activities and investment in test and optimization infrastructures (upscaling) in the context of COVID-19;
 - Specific Regulation for investment support in the production of goods and services relevant to COVID-19.
- (8) The Portuguese authorities submitted copies of these draft Regulations to the Commission on 15 April 2020, and submitted amended versions on 16 April 2020.

2.3. Administration of the measure

- (9) The scheme will be implemented by the following granting authorities as Managing Authorities for the Operational Programmes adopted for the current programming period (2014-2020): regional Operational Programmes - Norte, Centro, Lisboa, Alentejo and Algarve, and the thematic Competitiveness and Internationalisation Operational Programmes These Managing Authorities act under the responsibility of the Ministry of Economy and the Ministry of Planning.

2.4. Budget and duration of the measure

- (10) The budget of the measure amounts to EUR 140 million, of which EUR 50 million for R&D projects and investment in testing and upscaling infrastructures, and EUR 90 million for the production of COVID-19 relevant products.

- (11) The measure will be financed by the European Structural and Investment Funds (ESIF).
- (12) Individual aid may be granted under both aid schemes of the measure until 31 December 2020.

2.5. Beneficiaries

- (13) The final beneficiaries of the measure are all undertakings, irrespective of their size (small and medium-sized enterprises, large undertakings) that are able to engage in COVID-19 relevant research or produce COVID-19 relevant products, irrespective of their sector of activity.
- (14) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)³ before 1 January 2020.

2.6. Sectoral and regional scope of the measure

- (15) The measure is open to all sectors as explained in recital (13). It applies to mainland Portugal (regions *Norte, Centro, Lisboa, Alentejo* and *Algarve*).

2.7. Basic elements of the measure

2.7.1. Aid for R&D projects

- (16) Pursuant to Article 6 of the draft Regulation, the aid measure supports COVID-19 relevant research into vaccines, medicinal products and treatments, medical devices and hospital and medical equipment, disinfectants, and protective clothing and equipment, and into relevant process innovations for an efficient production of the required products, including projects which were awarded a COVID-19 Seal of Excellence quality label under the Horizon 2020 SME instrument.
- (17) The following R&D stages are supported: fundamental research, industrial research, and experimental development⁴. Furthermore, the aid measure supports clinical trials, including trial phases I to IV and efforts for obtaining, validating and defending patents and other intangible assets, and for obtaining the conformity assessments and/or authorisations necessary for the marketing of new and improved vaccines and medicinal products, medical devices, hospital and

³ As defined in Article 2(18) of the 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 of 26.6.2014, p. 1[, Article 2(14) of the 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 of 1.7.2014, p.1, and Article 3(5) of the 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 of 24 December 2014, p. 37.]

⁴ As defined in paragraph (84), (85) and (86) of Article 2 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 of 26.6.2014, p. 1.

medical equipment, disinfectants, and personal protective equipment is supported under the notified measure.

- (18) All undertakings carrying out relevant independent research are eligible for the aid, subject to the conditions that :
- The undertaking was not already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁵ before 1 January 2020;
 - That the undertaking declares that it is not a company subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market as provided for in Art. no. 1(4)(a) of Council Regulation (EU) 651/2014 of 16 June of 2004.
- (19) Under the measure, the following cost components are eligible for the duration of the project (Article 10 of the draft Regulation):
- a) personnel costs;
 - b) costs of instruments and equipment, including costs of digital and computing equipment;
 - c) costs of contractual research and other relevant research services, including costs for digital and computing services;
 - d) knowledge and patents bought or licensed from outside sources in arm's length transactions;
 - e) other operating expenses, e.g. materials;
 - f) additional overhead costs incurred directly as a result of the R&D project;
 - g) costs for pre-clinical and clinical trials (trial phases I-IV);
 - h) costs for obtaining, validating and defending patents and other intangible assets;
 - i) costs incurred for obtaining the conformity assessments and/or authorisations necessary for the marketing of new and improved vaccines and medicinal products, medical devices, hospital and medical equipment, disinfectants, and personal protective equipment.
- (20) Only costs directly related to, and necessary for the R&D project, and the subsequent IPR protection, clinical trial (phases I-IV) and regulatory procedures, are eligible. The Portuguese authorities confirmed that assets (instruments, equipment, etc.) that are not used for the full duration of the R&D project and/or

⁵ As defined in Article 2(18) of the 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 of 26.6.2014, p. 1[, Article 2(14) of the 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 of 1.7.2014, p.1, and Article 3(5) of the 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 of 24 December 2014, p. 37.]

are used for other purposes than the R&D projects covered by the measure, will be taken into account only *pro rata* (i.e depreciation over the period of duration of the R&D project if applicable or *pro rata* of the capacity used for the R&D project).

- (21) The Portuguese authorities confirmed that costs related to phase-IV trials are eligible as long as they allow further scientific or technological advance.
- (22) Pursuant to Article 9 of the draft Regulation, the measure is made available for projects that have started as of 1 February 2020. Where the aid is necessary to accelerate works or to widen the scope of a project, which started before 1 February 2020, only the additional costs in relation to the acceleration efforts or the widened scope are eligible.
- (23) The Portuguese authorities confirmed that under this measure aid will not be granted to undertakings carrying out contract research on behalf of other undertakings.
- (24) Under the measure, the maximum allowable aid intensity (in the absence of bonuses), by category of research, is 100 % for fundamental research, and 80 % for industrial research and experimental development. The Portuguese authorities confirmed that where a R&D project consists of several working packages that fall under different categories of research (fundamental research, industrial research or experimental development), the relevant aid intensity will be applied separately to each working package to ensure that the most favourable aid intensity is not applied to all working packages.
- (25) Article 12 paragraph 1 c) of the draft Regulation provides for a collaboration bonus for industrial research and experimental development activities that are supported by more than one Member State, or that are carried out in cross-border collaboration with research organisations or other undertakings. The total collaboration bonus amounts to a maximum of 15 percentage points.
- (26) Pursuant to Article 9 paragraph 2 of the draft Regulation, aid is granted subject to the condition that the aid beneficiary shall commit to grant non-exclusive licences under non-discriminatory market conditions to third parties in the European Economic Area.
- (27) The Portuguese authorities confirmed that individual aid under the scheme will be granted by 31 December 2020.
- (28) The Portuguese authorities confirmed that aid for Covid-19 relevant R&D projects may be cumulated with other aid for the same eligible costs provided the combined aid does not exceed the ceilings defined under points 35 (d) and (e) of the Temporary Framework.

2.7.2. Investment aid for testing and upscaling infrastructures

- (29) The measure supports the construction and upgrade of testing and upscaling infrastructures required to develop, test and upscale COVID-19 relevant products. These products comprise medicinal products (including vaccines and medicines) and treatments, as well as their intermediates, active pharmaceutical ingredients and raw materials and machinery and equipment needed for their production;

medical devices, hospital and medical equipment (including ventilators and protective clothing and equipment, as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; as well as data collection/processing tools and other specialized consultancy that may be needed for upscaling infrastructures.

- (30) The eligible costs are the investment costs needed for constructing and upgrading, testing and upscaling infrastructures required to develop, test and upscale COVID-19 relevant products. These may include:
- a) Costs related to the construction or upgrading of testing and optimization infrastructures (upscaling) required to develop, test and upscale, up to first industrial deployment prior to mass production, Covid-19 relevant products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials, as well as disinfectants and their intermediate products and raw chemical substances necessary for their production, namely the purchase of machinery and equipment, the purchase of services for technical and scientific assistance and expert advice necessary for the development of the infrastructure capacities;
 - b) Costs for the purchase of medical devices, hospital and medical equipment, including ventilators and protective clothing and equipment, as well as diagnostic tools and the necessary raw materials;
 - c) Costs related to data collection / processing tools.
- (31) The maximum allowable aid intensity under the measure for this type of aid is of 75%. This percentage may be increased by 15 percentage points if the project is completed within 2 months of the date of the decision.
- (32) This measure applies to investment projects started as from 1 February 2020. For projects on which works were started before that date, the measure applies provided the aid serves to accelerate their implementation, or to extend their scope, and only to the additional costs incurred to the accelerate the efforts or widen the scope of the project. Moreover, the investment project must be completed within six months of the date of the decision to grant the aid. Where the maximum implementation period of 6 months is not respected, for reasons attributable to the beneficiary, 25% of the support granted shall be reimbursed on a non-repayable basis for each month of delay under the following conditions:
- a) The reimbursement plan begins 30 days after the decision to close the project;
 - b) The beneficiary does not have to pay interest or other charges;
 - c) Depreciation is made in annual, equal and successive instalments;
 - d) The repayment period can go up to 5 years.
- (33) The price charged for the services provided by the testing and upscaling infrastructure must correspond to the market price. The aid beneficiaries must commit to grant open access to the infrastructure to several users based on non-discriminatory market terms, transparent and non-discriminatory conditions, also to third parties in the European Economic Area.

- (34) Finally, aid for testing and upscaling infrastructures under this measure must not be combined with other investment aid for the same eligible costs.

2.7.3. Investment aid for the production of Covid-19 relevant products

- (35) The measure supports investments to manufacture COVID-19 relevant products and services, such as medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators, protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; data collection/processing tools.
- (36) The eligible costs are the investment costs necessary to create the eligible production capacities, and the costs of trial runs of the new production facilities. These may include:
- a) Costs of purchasing machinery and equipment (including computers and necessary software), as well as costs of adapting equipment and reorganizing production lines;
 - b) Cost of construction of buildings, remodelling works and other constructions;
 - c) Costs of acquisition of national and international patent rights, licences, “know-how” or unpatented technical knowledge, and software;
 - d) Costs of certified accountants or statutory auditors necessary for validating the eligible expenditure for the investment project, up to a limit of EUR 5 000;
 - e) Costs of studies, diagnostics, audits, technical-scientific consulting, marketing plans and architectural and engineering projects associated with the investment project;
 - f) Laboratory tests and trials, certifications and conformity assessments, raw materials necessary for trial runs essential for the development of the investment project.
- (37) The measure is applicable to investment projects started as from 1 February 2020, as well as investment projects on which works had started before that date, provided the aid serves to accelerate their implementation, or to extend their scope. Where the purpose of the aid application is to accelerate works or to widen the scope of a project started before 1 February 2020, only the additional costs in relation to the acceleration efforts or the widened scope are eligible.
- (38) Investment for the production of COVID-19 relevant products as listed in recital (35) can benefit of a grant under the aid scheme, with a maximum allowable aid intensity (in the absence of bonuses) of 80 % of the eligible costs. The aid scheme provides for a bonus of 15 percentage points for investment projects that are completed within two months after the investment aid was granted.
- (39) The investment projects have to be completed within six months after the date of the granting of aid. If that deadline is not met, 25% of the amount of aid is to be

repaid per month of delay, unless the delay is due to factors outside the control of the aid beneficiary.

- (40) The investment aid under this measure cannot be cumulated with other investment aid for the same eligible expenditure.

2.8. Cumulation

- (41) The aid ceilings and cumulation maxima specified under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.
- (42) Individual aid under the notified aid measure for research projects can be combined with support from other sources for the same costs, except with aid under section 3.8 of the Temporary Framework. The combined aid intensity may not exceed 80%, if no cooperation bonus applies; and 95% if the cooperation bonus applies. For fundamental research projects, the combined aid intensity may not exceed 100%.
- (43) As regards individual aid for Covid-19 relevant R&D projects, the Portuguese authorities confirmed that, aid may be cumulated with other aid for the same eligible costs provided the combined aid does not exceed the ceilings defined under points 35 (d) and (e) of TF COVID-19 as amended (recital (28)).
- (44) As regards individual aid for investment in testing and upscaling infrastructure and investment aid for the production of COVID-19 relevant products, the Portuguese authorities confirmed that, aid will not be combined with other investment aid or other sources of support for the same eligible costs (recitals (34) and (40)).

2.9. Transparency, monitoring and reporting

- (45) The Portuguese authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework, including the obligation to publish relevant information on each individual aid granted under this Communication on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting.

3. ASSESSMENT

3.1. Existence of State aid

- (46) 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.
- (47) The notified measure is imputable to the State, since it is administered by Managing Authorities acting under the responsibility of the Ministry of the Economy and the Ministry of Planning, and it is based on the legislative acts in the form of Regulations and Orders (recitals (7) and (8)).

- (48) The measure is financed through State resources, since it is financed by funding attributed to Portugal under the ESIF (recital 11).
- (49) The notified measure confers an advantage on its beneficiaries in the form of direct grants (recital (6)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (50) The advantage granted by the measure is selective, since it will be awarded, upon application, and based on a discretionary decision of the aid granting authority only to certain undertakings, active in Portugal, carrying out COVID-19 relevant research, testing or upscaling or producing COVID-19 relevant products. In addition, the final beneficiaries of the measure are limited to those indicated in recitals (13) to (15).
- (51) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since its beneficiaries are active in sectors in which intra-Union trade exists.
- (52) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Portuguese authorities do not contest that conclusion.

3.2. Lawfulness of the measure

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

3.3. Compatibility

- (54) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (55) Pursuant to Article 107(3)(c) TFEU the Commission may declare compatible with the internal market “*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*”.
- (56) By adopting the Temporary Framework on 19 March 2020, as amended on 3 April 2020, the Commission acknowledged the need to take specific temporary measures enabling Member States to combat the health crisis caused by the COVID-19 outbreak. The measure aims at enhancing and accelerating COVID-19 relevant research, testing and upscaling, and at facilitating the production of COVID-19 relevant products to address the current emergency health crisis. It has been designed to meet the requirements of the specific categories of aid (“Aid for COVID-19 relevant research and development”, “Investment aid for testing and upscaling of infrastructure” and “Investment aid for the production of COVID-19 relevant products”) described in sections 3.6, 3.7 and 3.8 of the Temporary Framework.
- (57) The Commission accordingly considers that the notified measure contributes to the achievement of a common objective of crucial importance, is appropriate and necessary to fight the health crisis.

3.3.1. Aid for R&D projects

(58) When it comes to R&D projects, the scheme meets all the conditions of the Temporary Framework, and in particular its section 3.6:

- R&D aid under this aid measure is limited to the eligible research areas that are listed in paragraph 35 of the Temporary Framework (recital (16) and (17)).
- In accordance with paragraph 35 lit.a) of the Temporary Framework, aid is granted in the form of direct grants (recital (6)).
- In accordance with paragraph 35 lit.b) of the Temporary Framework, eligible R&D projects under the aid measure are projects started as from 1 February 2020, and projects on which works were started before that date, provided the aid serves to accelerate their implementation, or to extend their scope (recital (22)).
- As required by paragraph 35 lit.g) of the Temporary Framework, the aid beneficiaries have to commit to grant non-exclusive licences under market conditions to third parties in other EEA states (recital (26)).
- Eligible costs under the aid measure are defined in accordance with the provisions laid down in paragraphs 35 lit.c) of the Temporary Framework (recital (19)). Eligible are all the costs necessary for the R&D project for its duration. For projects started before 1 February 2020, only the costs incurred after the date of the aid application, in relation to the acceleration efforts or the widened scope of the project are eligible as required by paragraph 35 lit.b) of the Temporary Framework (recital (22)).
- The overall aid intensities under this aid measure are defined in conformity with the provisions laid down in paragraphs 35 lit.d) of the Temporary Framework (recital (24)). The cooperation/collaboration bonus does not exceed 15 percentage points, and is granted under the conditions outlined in paragraph 35 lit.e) of the Temporary Framework (recital (25)).
- In case of cumulation with other aids for the same costs, the cumulation ceilings laid down in paragraph 35 lit. d), e) and f) of the Temporary Framework will not be exceeded. Moreover, aid cannot be cumulated with aid for the same costs under section 3.8 as outlined in paragraph 20 of the Temporary Framework (recitals (42) to (44)).

3.3.2. Investment aid for testing and upscaling of infrastructure

(59) When it comes to investment and upscaling of infrastructure, the scheme meets all the conditions of the Temporary Framework, and in particular its section 3.7:

- The aid is granted for the construction or upgrade of testing and upscaling infrastructures under the conditions outlined in paragraph 37 lit.a) of the Temporary Framework (recital (29));
- The aid is granted in the form of direct grants in accordance with paragraph 37 lit.b) of the Temporary Framework (recital (6));
- In accordance with paragraph 37 lit.c) of the Temporary Framework, eligible investment projects under the aid measure are projects started as from 1

February 2020, and projects on which works were started before that date, provided the aid serves to accelerate their implementation, or to extend their scope (recital (32)).

- In accordance with paragraph 37 lit.d) of the Temporary Framework, the investment projects have to be completed within six month after the investment aid was granted. If this deadline is not respected, the aid amount is reduced by 25% per month of delay for aid in the form of direct grants (recital (32)).
- In accordance with paragraph 37 lit.e), eligible costs are the investment costs necessary for setting up the testing and upscaling infrastructures required to develop the products listed in point 37 lit.a). For projects started before 1 February 2020, only the additional costs in relation to the acceleration efforts or the widened scope are eligible, as required by paragraph 37 lit.c) of the Temporary Framework (see recital (32)).
- The overall aid intensities under this aid measure are defined in conformity with the provisions laid down in paragraph 37 lit.e) of the Temporary Framework (recital (31)). A bonus does not exceed 15 percentage points, and is granted under the conditions outlined in paragraph 37 lit.f) of the Temporary Framework.
- In accordance with paragraph 37 lit.g) of the Temporary Framework, cumulation of the investment aid with other aid for the same eligible costs is not allowed (recital (34)).
- In accordance with paragraph 37 lit.i) of the Temporary Framework, the price charged for the services provided by the testing and upscaling infrastructure shall correspond to the market price (recital (33)).
- In accordance with paragraph 37 lit.j) of the Temporary Framework, the testing and upscaling infrastructures shall be open to several users and access shall be granted on a transparent and non-discriminatory basis (recital (33)).

3.3.3. *Investment aid for the production of COVID-19 relevant products*

(60) When it comes to COVID-19 related investment projects, the scheme meets all the conditions of the Temporary Framework, and in particular its section 3.8:

- Investment aid under this aid measure is limited to creating production capacities for COVID-19 relevant products and services that are listed in paragraph 39 lit.a) of the Temporary Framework (recital (35)).
- In conformity with paragraph 39 lit.b) and h) of the Temporary Framework, the aid is granted in the form of direct grants (recital (6)).
- In accordance with paragraph 39 lit.c) of the Temporary Framework, eligible investment projects under the aid measure are projects started as from 1 February 2020, as well as investment projects on which works were started before that date, provided the aid serves to accelerate their implementation, or to extend their scope (recital (37)).
- Eligible investment costs under the aid measure are defined in accordance with the provisions laid down in paragraph 39 lit.e) of the Temporary Framework (recital (36)). For projects started before 1 February 2020, only the additional costs in relation to the acceleration efforts or the widened

scope are eligible, as required by paragraph 39 lit.c) of the Temporary Framework (recital (37)).

- In conformity with paragraph 39 lit.d) of the Temporary Framework, eligible investment projects have to be completed within six month after the investment aid was granted. If this deadline is not respected, the aid amount is reduced by 25% per month of delay for aid in the form of direct grants (recital (39)).
- The overall aid intensities under this aid measure are defined in conformity with the provisions laid down in paragraph 39 lit.e) of the Temporary Framework. A bonus does not exceed 15 percentage points, and is granted under the conditions outlined in paragraph 39 lit.f) of the Temporary Framework (recital (38)).
- In accordance with paragraph 39 lit.g) of the Temporary Framework cumulation of the investment aid with other aid for the same costs is not allowed (recital (40)).

3.3.4. Generally applicable requirements

- (61) As required by paragraph 49 of the Temporary Framework, individual aid under the notified measure shall not be granted after 31 December 2020 (recital (12)).
- (62) The Commission notes that Portuguese authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework.
- (63) Pursuant to paragraphs 35 lit.h), 37 lit.k) and 39 lit.i) of the Temporary Framework, undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁶ before 1 January 2020 are not eligible under this measure (recital (14)).
- (64) In the light of the above elements, the Commission considers that the measure is compliant with the compatibility conditions set out by the Temporary Framework, through which the Commission took due consideration of the common objective pursued by such aid measures and their positive effects on tackling the health emergency crisis provoked by the COVID-19 outbreak when balancing them against the potential negative effects of such measures on the internal market.

⁶ As defined in Article 2(18) of the 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 of 26.6.2014, p. 1[, Article 2(14) of the 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 of 1.7.2014, p.1, and Article 3(5) of the 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 of 24 December 2014, p. 37.]

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)(c) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President