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SENSITIVE* : *COMP Operations*

Subject: State Aid SA.57947(2020/N) – Italy

COVID-19: Support measures for undertakings carrying out activities in the agricultural, forestry, fishery and aquaculture sectors and the activities related thereto, in relation with the COVID-19 outbreak crisis

Excellency,

1. PROCEDURE

- (1) By electronic notification of 6 July 2020, Italy notified aid in the form of limited amounts of aid (Support measures for undertakings carrying out activities in the agricultural, forestry, fishery and aquaculture sectors and the activities related thereto, in relation with the COVID-19 outbreak crisis, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹
- (2) 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 1/1958² and to have this Decision adopted and notified in English.

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

¹ 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 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, by Communication from the Commission C(2020) 3156 final of 8 May 2020 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 of 29 June 2020 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.

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

- (3) Italy considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (4) Italy confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (6) The measure provides aid in the form of direct grants, repayable advances, tax and payment advantages, reduction or cancellation of the payment of social security and welfare contribution and of outstanding debts with the public administration.

2.2. Legal basis

- (7) The legal basis for the measure is the draft decree of the Ministry for agricultural, food and forestry policies concerning measures to support undertakings active in the agricultural, forestry, fishery and aquaculture sectors and performing activities related to the agricultural, forestry, fishery and aquaculture sectors in relation to the Covid-19 outbreak crisis (*“Decreto del Ministro delle politiche agricole alimentari e forestali concernente le misure a sostegno delle imprese attive nei settori agricolo e forestale, nei settori della pesca e acquacoltura e nelle attività connesse ai settori agricolo e forestale, ai settori della pesca e acquacoltura in relazione all'emergenza epidemiologica da Covid-19”*).

2.3. Administration of the measure

- (8) The Ministry for agricultural, food and forestry policies and other national bodies are responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 1.2 billion.
- (10) Aid may be granted under the measure as from its approval until no later than 31 December 2020³.

³ For the aid granted in the form of tax advantage, reduction or cancellation of the payment of social security contribution and other payment facilities, the tax liability, the social security and welfare contribution and any other payment obligation in relation to which the aid is granted must have arisen no later than 31.12.2020, in line with footnote 19 of the Temporary Framework.

2.5. Beneficiaries

- (11) The final beneficiaries of the scheme, the number of which is estimated over 1000, are undertakings of all size active in Italy. Financial institutions are excluded as eligible final beneficiaries.
- (12) Aid may not be granted under the measure to medium⁴ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁵, of the Agricultural Block Exemption Regulation (“ABER”)⁶ and the Fishery Block Exemption Regulation (“FIBER”)⁷ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER, the ABER and the FIBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid⁸ or restructuring aid⁹.

2.6. Sectoral and regional scope of the measure

- (13) The measure is open to the sectors of primary production of agricultural products, processing of agricultural products into agricultural products and non-agricultural products, marketing of agricultural products and non-agricultural products, forestry, fishery and aquaculture and to the other sectors within which fall the activities related thereto, except the financial sector. It applies to the whole territory of Italy.

2.7. Basic elements of the measure

- (14) The scheme provides aid to the eligible beneficiaries in the form of direct grants, repayable advances, tax and payment advantages, reduction or cancellation of the payment of social security and welfare contribution and of outstanding debts with the public administration under Section 3.1 of the Temporary Framework.

⁴ As defined in Annex I to 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.

⁵ 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 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.]

⁶ As defined in 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.

⁷ As defined in 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.

⁸ 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.

⁹ Alternatively, 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.

- (15) In any case the total nominal amount of the aid cannot exceed the following ceilings¹⁰:
- a) EUR 100 000 per undertaking active in the primary production of agricultural products;
 - b) EUR 120 000 per undertaking active in the fishery and aquaculture sector;
 - c) EUR 800 000 per undertaking active in the forestry sector or in the processing and marketing of agricultural product or in the other sectors within which fall the activities related to agriculture, forestry and fishery and aquaculture (e.g. catering, agro-tourism, didactic farms).
- (16) Aid to undertakings active in the processing and marketing of agricultural products will not be partly or entirely passed on to primary producers nor will it be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by those undertakings.
- (17) Aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market.
- (18) Aid to undertakings active in the fishery and aquaculture sectors will not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014¹¹.
- (19) Where an undertaking is active in several sectors to which different maximum amounts apply, Italy will 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 800 000 is not exceeded per undertaking. Where an undertaking is active in primary agricultural production and in fishery/aquaculture, the overall maximum amount of EUR 120 000 will not be exceeded per undertaking.

2.8. Cumulation

- (20) The aid ceilings and cumulation maxima fixed under the measure will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the European Structural and Investment Funds (ESIF).
- (21) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹² or the GBER, the ABER and

¹⁰ All figures used must be gross, that is, before any deduction of tax or other charges.

¹¹ Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 90, 28.6.2014, p. 45).

¹² Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

the FIBER¹³ provided the provisions and cumulation rules of those Regulations are respected.

- (22) The Italian authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (23) The Italian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (24) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (25) The Italian 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 above EUR 100 000 granted under the measure and EUR 10 000 in the agricultural and fisheries sector on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹⁴).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (27) 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

¹³ 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, Commission Regulation (EC) 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 on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and 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 on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

¹⁴ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014. For repayable advances, guarantees, loans, subordinated debt and other forms of aid, the nominal value of the underlying instrument shall be inserted per beneficiary. For tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.

be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

- (28) The measure is imputable to the State, since it is administered by the Ministry for agricultural, food and forestry policies and other national bodies (recital (8)) and it is based on draft decree of the Ministry for agricultural, food and forestry policies (recital (7)). It is financed through State resources, since it is financed by public funds.
- (29) The measure confers an advantage on its beneficiaries in the form of direct grants, repayable advances, tax and payment advantages, reduction or cancellation of the payment of social security and welfare contribution, debt write-off and other payment facilities (recital (6)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (30) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the sectors of primary production of agricultural products, processing of agricultural products into agricultural products and non-agricultural products, marketing of agricultural products and non-agricultural products, forestry, fishery and aquaculture and in the other sectors within which fall the activities related thereto, excluding the financial sector (recital (13)).
- (31) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (32) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

- (33) 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.
- (34) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid *“to remedy a serious disturbance in the economy of a Member State”*.
- (35) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that *“the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings”*. The Commission concluded that *“State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs”*.
- (36) The measure aims at granting liquidity at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(37) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve employment and economic continuity is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the Italian economy. The measure is justified by the unprecedented crisis that the agricultural, forestry, fishery and aquaculture sectors are undergoing due to the closure of many market sectors, the severe disruption of export channels as well as the reduction of available workers and increased logistical difficulties. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Limited amounts of aid”) described in section 3.1 of the Temporary Framework.

(38) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- The aid takes the form of direct grants, repayable advances, tax advantages (including the reduction or cancellation of the payment of social security and welfare contribution) and payment advantages (including the repayment of outstanding debts with the public administration) (recital (6)).

For all undertakings active in sectors other than primary agriculture production and fishery and aquaculture, the overall nominal value of direct grants, repayable advances, tax and payment advantages, reduction or cancellation of the payment of social security and welfare contribution, debt write-off and other payment facilities shall not exceed EUR 800 000 per undertaking (recital (15)c)); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework;

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (9). The measure therefore complies with point 22(b) of the Temporary Framework;
- Aid will not be granted to undertakings under the measure that were already in difficulty on 31 December 2019. The measure therefore complies with point 22(c) of the Temporary Framework. Aid will be granted to micro or small enterprises (within the meaning of Annex I of the GBER, ABER and FIBER) that were already in difficulty on 31 December 2019 provided that they are not subject to collective insolvency procedure under national law, and that they have not received rescue aid or restructuring aid (recital (12)).
- Aid will be granted under the measure no later than 31 December 2020 (recital (10)). For aid in form of tax advantages, the tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2020. The measure therefore complies with point 22(d) of the Temporary Framework;
- Aid granted to undertakings active in the processing and marketing of agricultural products are excluded when the aid is conditional on being

partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers (recital (16)). The measure therefore complies with point 22(e) of the Temporary Framework.

- The overall nominal value of direct grants, repayable advances, tax and payment advantages, reduction or cancellation of the payment of social security and welfare contribution, debt write-off and other payment facilities does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector (recital (15)b)) or EUR 100 000 per undertaking active in the primary production of agricultural products (recital (15)a)). The measure therefore complies with point 23(a) of the Temporary Framework;
 - Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (17)). The measure therefore complies with point 23(b) of the Temporary Framework;
 - Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (18)). The measure therefore complies with point 23(c) of the Temporary Framework.
 - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Italy will 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 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 is not exceeded per undertaking (recital (19)). The measure therefore complies with point 23bis of the Temporary Framework.
- (39) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (25)). The Italian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recital (20) to (24)).
- (40) The Italian authorities also confirm that the rules under the European Regional Development Fund (ERDF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF) as amended by the Coronavirus Response Investment Initiative (CRII), and European Union Solidarity Fund (EUSF) will be respected.
- (41) 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 Framework.

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

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION