EUROPEAN COMMISSION

Brussels, 21.9.2022
C(2022) 6840 final

PUBLIC VERSION

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Subject: **State Aid SA.104109 (2022/N) – Lithuania**
TCF: The Incentive Financial Instrument "Direct Loans to Business Operators Affected by War"

Excellency,

1. PROCEDURE

(1) By electronic notification of 24 August 2022, Lithuania notified liquidity support in the form of subsidised loans ("Direct Loans to Business Operators Affected by War", the "measure") under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the "Temporary Crisis Framework")[1].

(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 Article 3 of Regulation 1/1958[2] and to have this Decision adopted and notified in English.

[1] 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 by Commission Communication C/2022/5342 (OJ C 280, 21.7.2022, p. 1).

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

Mr. Gabrielius Landsbergis
Užsienio Reikalų Ministerija
J. Tumo-Vaižganto g. 2
LT-01511 Vilnius
LIETUVA/LITHUANIA

2. DESCRIPTION OF THE MEASURE

(3) Lithuania considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken for example by Russia (‘the current crisis’) so far affects the real economy through declining exports, potential disruptions to raw material imports, an uncertain investment climate and rising energy prices. Before the current crisis, in 2021, Lithuanian exports to Russia, Belarus and Ukraine, accounted for 11%, 3% and 4% of all Lithuanian exports respectively, for a total of EUR 6.1 billion in exports to those three countries.[3] In 2022, exports of Lithuanian goods to Ukraine, Russia and Belarus are expected to decrease by, respectively, EUR 808 million, EUR 323 million and EUR 107 million. Also, due to the current crisis, Lithuanian exports of services, especially transport services, are expected to grow significantly slower than previously predicted.[4] As a result, Lithuanian carriers are likely to lose about EUR 340 million of income or even more. Regarding imports, Russia, Belarus and Ukraine accounted together for 17% of Lithuania’s total imports in 2021, 89% of which were various raw materials or components used in various production processes, mainly energy products and, to a lesser extent, metals, wood and fertilisers. The measure aims at remedying 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, the sanctions imposed by the EU or by its international partners, as well as by the economic counter measures taken so far, for example by Russia.

(4) Lithuania confirms 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 1 and 2.3 of the Temporary Crisis Framework.

2.1. The nature and form of aid

(6) The measure provides aid in the form of subsidised loans under section 2.3 of the Temporary Crisis Framework.

2.2. Legal basis

(7) The legal basis for the measure is the draft Order of the Minister of Economy and Innovation of Republic of Lithuania on the approval of the scheme of the incentive financial instrument “Direct Loans to Business Operators Affected by

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3 Sources: data from the Lithuanian Statistics Department (https://www.stat.gov.lt/) and calculations and forecasts by the Innovation Agency and the Ministry of Economy and Innovation.

4 Before the current crisis, Lithuanian exports of services were forecast to grow by 13.3% in 2023. This forecast has been reduced to 3.8%.

War"[5]. Lithuania has confirmed that this Order will be signed and published after the notification to Lithuania of the Commission decision approving the measure.[6]

2.3. Administration of the measure

(8) The national promotional institution Invega ("*Investicijų ir verslo garantijos")* is responsible for administering the measure and granting the aid[7]. Invega, which was initially a private limited liability company, has the status of national promotional institution since 17 October 2018. By decision of the Supervision Service of the Bank of Lithuania, Invega was included on the List of National Promotional Institutions starting from 3 December 2018. As such, the operations of Invega are aimed to implement State-financed measures.

2.4. Budget and duration of the measure

(9) The estimated budget of the measure is EUR 50 million, from the Invega Fund. The Invega Fund was established on 2009 following the Financing Agreement No 11K-015/8-175 (7 April 2009) among the Ministry of Economy of the Republic of Lithuania, the Ministry of Finance of the Republic of Lithuania and Invega.

(10) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 31 December 2022.

2.5. Beneficiaries

(11) The final beneficiaries of the measure are SMEs and large enterprises[8] active in Lithuania.[9] However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.[10] The estimated number of beneficiaries is between 51 and 100.

(12) Only undertakings affected by the current crisis are eligible beneficiaries. Invega will be in charge of assessing that at least one of the following conditions is met by the beneficiary, to be deemed affected by the current crisis:

(a) The beneficiary's cumulated imports and exports with Ukraine and imports (only) from Russia and Belarus were at least 25% of the beneficiary's total cumulated imports and exports from 1 January 2021 to 31 December 2021;[11] and/or

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5 Skatinamoji finansinė priemonė „Tiesioginės paskolos nuo karo nukentėjusiems verslo subjektams".

6 The measure will be published on the website e-tar.lt

7 See section 4 of the legal basis.

8 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).

9 See section 5.1 of the legal basis.

10 See section 5.1.1 of the legal basis.

11 Compliance with the requirement referred to in this subparagraph shall be assessed on the basis of data obtained by Invega from the State Tax Inspectorate under the Ministry of Finance of the Republic of

(b) The cost of the beneficiary’s natural gas supply[12], heat supply[13] and electricity supply[14] (“energy”) is at least 8% of the beneficiary’s annual costs[15]; and/or

(c) The beneficiary carries out at least one of the economic activities the type code of which is included in Annex I to Temporary Crisis Framework, and that information is registered in the Statistical Register of Economic Operators of the Lithuanian Statistical Department as of 1 January 2022.[16]

(13) The beneficiaries must have no trade relations with natural persons and/or legal entities in Russia and/or Belarus, and they must have terminated such previous trade relationships if any no later than 31 August 2022.

(14) Lithuania confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.[17]

(15) Lithuania confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations[18]. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.[19]

2.6. Sectoral and regional scope of the measure

(16) The measure is open to all sectors of the economy except the financial sector. It applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

(17) The measure will be implemented through the issuance of subsidised loans under section 2.3 of the Temporary Crisis Framework.

Lithuania and/or the Customs Department under the Ministry of Finance of the Republic of Lithuania and/or data provided by the beneficiary (if the beneficiary is not liable to pay value added tax).

12 As defined in Article 2(32) of the Republic of Lithuania Law on Natural Gas.

13 As defined in Article 2(47) of the Republic of Lithuania Law on the Heat Sector.

14 As defined in Article 2(53) of the Republic of Lithuania Law on Electricity.

15 The amount of the beneficiary’s annual costs shall be determined on the basis of the beneficiary’s annual set of financial statements approved for 2021.

16 See section 5.1.3 of the legal basis.

17 See section 5.2 of the legal basis.

18 For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

19 See section 5.2 of the legal basis.

(18) The subsidised loans will be granted by 31 December 2022 at the latest.[20] The beneficiaries can submit their application until 30 November 2022.[21]

(19) The loans will be granted for the purpose of financing investments and/or working capital.[22]

(20) The maximum amount of the loan to be granted to a beneficiary is calculated in accordance with one of the following provisions:

(a) The amount of the loan must not exceed 15% of the beneficiary's average sales revenue for the last 3 financial years, this amount being calculated on the basis of the annual financial statements;[23]

(b) The amount of the loan must not exceed 50% of the amount of the beneficiary's energy costs incurred during the last 12 months preceding the month in which the loan application was submitted, this amount being calculated on the basis of the documentation submitted by the beneficiary to Invega to prove the incurred energy costs.[24]

(21) The amount of the loan granted to a beneficiary or to a group of undertakings (if the borrower belongs to a group of undertakings[25]) may not exceed EUR 10 million.[26]

(22) The risk of the investment project and/or the risk of non-repayment of the loan by the beneficiary must be at an acceptable level of risk in accordance with the methodology approved by Invega.[27]

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[20] See section 3 of the legal basis.

[21] See section 6.2.2 of the legal basis.

[22] See section 6.1 of the legal basis.

[23] If the beneficiary has operated for less than three years, the amount of the loan shall be calculated on the basis of the period for which the beneficiary has operated prior to the date of submission of the application, see section 9.1.1.1 of the legal basis.

[24] If the beneficiary has operated for less than 12 months, the available amount of the loan shall be calculated on the basis of the period during which the beneficiary has operated prior to the date of application, see section 9.1.1.2 of the legal basis.

[25] As defined in Article 3(1) of the Republic of Lithuania Law on Consolidated Financial Reporting by Groups of Undertakings. A group of undertakings is defined as a group of parent and subsidiary undertakings in which the parent undertaking(s) exercise a direct or indirect dominant influence on the subsidiary undertakings. Therefore, the group of undertakings may be considered to form one economic unit, which is then considered to be the relevant undertaking.

[26] See section 9.1.2 of the legal basis.

[27] The level of risk is defined using an internal rating system, which assigns an appropriate "Risk Group": Credit bureau bankruptcy rating (weighting of 50%) and Internal INVEGA rating (weighting of 50%). Internal INVEGA rating is assessed individually taking into consideration three focus areas of the beneficiary and the project: (i) reputation and business environment (weighting of 24%); (ii) cash flow forecasts (weighting of 30%); and (iii) current financial status (weighting of 46%). After all assessment 24 Risk Groups are defined. Each Risk Group could be translated to external rating agency and probability of default (PD) is defined for each group. The owner of funds (in this case Ministry of the Economy and Innovation) is defining the acceptable level of Expected credit loss (ECL) for the whole Loan portfolio. Individual loan ECL level cannot exceed pre-defined portfolio ECL and Risk Group cannot be greater than 20 (Risk Group 20 corresponds to B3 according to Moody's).

(23) Regarding loans granted for the purpose of financing working capital:

(a) The loans cannot be used for any of the following purposes:[28]

– To grant loans, pay dividends, repay or grant loans to the beneficiary's members and/or natural and legal persons, reduce the beneficiary's authorised capital, repurchase its own shares, or make other payments out of the capital of the beneficiary to the beneficiary's members and/or natural and legal persons;

– To finance the beneficiary's existing financial liabilities to financial institutions and/or refinance the beneficiary's existing financial liabilities;

– For investments (including the reconstruction of tangible assets); or

– For settlements with Russia, Belarus or the People's Republic of China.[29]

(b) The loan duration may not exceed 36 months, including grace periods, if any;[30]

(c) A loan granted for a period shorter than 36 months may be extended up to a maximum period of 36 months if the beneficiary requests so and agrees to pay an extension fee set by Invega[31], the interest of the loan being recalculated consequently;[32]

(d) The interest rate of the loan is fixed, the level of which depends on the riskiness of the beneficiary, which shall be determined in accordance with a methodology approved by Invega. The applicable interest rate will in any event not be lower than 5%;[33]

(e) A grace period of up to 6 months, from conclusion of the loan agreement, limited to the principal, can be provided by Invega;[34]

(f) At the request of the beneficiary, and with the consent of Invega, the initially agreed grace period can be extended for an additional period but not more than once, up to a maximum of 6 months in total, provided that the beneficiary applies for the extension at least one month before the

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[28] See section 8.1 of the legal basis.

[29] Including both the public authorities and the companies incorporated in these countries.

[30] See section 6.2.1 of the legal basis.

[31] The fee (EUR 100) will have to be paid if the change of the loan agreement or payment schedule is initiated by the borrower. This fee is indicated in the description of the conditions for the implementation of the measure, published on Invega's website, and applies equally to all beneficiaries.

[32] See section 6.2.1 of the legal basis.

[33] See section 6.2.3 of the legal basis.

[34] See section 6.2.4 of the legal basis.

expiry of the original grace period and agrees to pay a fee for the amendment of the original loan agreement as set by Invega;[35]

(g) The beneficiary is responsible for the use of the loan for the purpose specified in the loan agreement;[36]

(h) The beneficiary shall not, during the term of the loan, grant loans or other forms of financing to other economic operators and/or natural persons, except for the sale of goods, services on a deferred payment or hire purchase basis, pay dividends or royalties, reduce the authorised capital for the purpose of making distributions to the beneficiary's members, buy back the beneficiary's capital shares and/or make other profit distributions to the beneficiary's participant(s), invest funds in other economic operators without the prior written consent of Invega;[37]

(i) Only one loan financing working capital per beneficiary may be granted under the measure, and its amounts may not be increased.[38]

(24) Regarding loans granted for the purpose of financing investments:

(a) The loan shall be intended for the beneficiary's investment expenditure on tangible and/or intangible fixed assets, other than the ineligible loan expenditures listed in recital (24)(c);

(b) The eligible costs of the investment project are:[39]

– Financing the acquisition of tangible fixed assets (i.e. buildings, plant, machinery and equipment) including reconstruction of own tangible fixed assets as well as acquisition of land, where the investment is directly linked to the production of the products and/or goods and/or services to be produced;

– Financing acquisition of intangible fixed assets without physical or financial substance (i.e. patents, licences or other intellectual property).

(c) The funds of the loans cannot be used for any of the following purposes:[40]

– For the beneficiary's expenditure which is not related to the beneficiary's investment project and which is not eligible expenses of the investment project as referred to in recital (24)(b);

– For investments which have started before the date of submission of the application, i.e. the contract(s) and/or invoice(s) have

[35] See section 6.2.4 of the legal basis.

[36] See section 6.2.7 of the legal basis.

[37] See section 6.2.6 of the legal basis.

[38] See section 9.1 of the legal basis

[39] See section 7.1 of the legal basis.

[40] See section 8.2 of the legal basis.

already been signed and/or paid for in relation to the acquisition of assets, supply of goods and/or services or the start of the contracting works;

– For settlements with Russia, Belarus or the People's Republic China;[41]

– For purchase and/or construction of real property with a view to its sale or other transfer to other persons, including rent and lease of real property and not for own use;[42]

– For the acquisition of agricultural land as defined in Article 25 of the Republic of Lithuania Law on Land;

– For purchase of vehicles as defined in Article 2(74) of the Republic of Lithuania Law on Safe Road Traffic.

(d) The loan duration may not exceed 72 months, including grace periods, if any;[43]

(e) A loan granted for a period shorter than 72 months may be extended up to a maximum period of 72 months if the beneficiary requests so and agrees to pay an extension fee[44] set by Invega, the interest of the loan being recalculated consequently;[45]

(f) The interest rate of the loan is fixed, the level of which depends on the riskiness of the beneficiary or the investment project, which shall be determined in accordance with the methodology approved by Invega. The applicable interest rate will in any event not be lower than 5%;[46]

(g) A grace period up to 24 months from conclusion of the loan agreement, limited to the principal, can be provided by Invega;

(h) At the request of the beneficiary, and with the consent of Invega, the initially agreed grace period can be extended for an additional period but not more than once, up to a maximum of 24 months in total, provided that the beneficiary applies for the extension at least one month before the expiry of the original grace period and agrees to pay a fee for the amendment of the original loan agreement as set by Invega;[47]

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41 Including both the public authorities and the companies incorporated in these countries.

42 Use of real property for own purposes is defined as use where at least 60 per cent of the property to be acquired is intended to be used for the economic activity of the beneficiary.

43 See section 6.3.2of the legal basis.

44 The fee (EUR 100) will have to be paid if the change of the loan agreement or payment schedule is initiated by the borrower. This fee is indicated in the description of the conditions for the implementation of the measure, published on Invega website, and applies equally to all beneficiaries.

45 See section 6.3.2 of the legal basis.

46 See section 6.3.4 of the legal basis.

47 See section 6.3.5 of the legal basis.

(i) The fixed assets financed by the loan (or other equivalent fixed assets) must be pledged in favour of Invega;[48]

(j) The beneficiary is responsible for the use of the loan for the purpose specified in the loan agreement;[49]

(k) In particular, the beneficiary shall not, during the term of the loan, grant loans or other forms of financing to other economic operators and/or natural persons, except for the sale of goods, services on a deferred payment or hire purchase basis, pay dividends or royalties, reduce the authorised capital for the purpose of making distributions to the beneficiary's members, buy back the beneficiary's capital shares and/or make other profit distributions to the beneficiary's participant(s), invest funds in other economic operators without the prior written consent of Invega;[50]

(l) Only one loan financing investment may be granted to one beneficiary or group of undertakings (if the beneficiary belongs to a group of undertakings) for financing of one investment project under the measure, and its amount may not be increased;[51]

(m) The beneficiary must ensure the participation of a private financier[52] (including the beneficiary with its available funds itself) in the investment project who must contribute at least 20% of the investment project's costs to participation in the project, among which at least 10% of the investment project's costs must be made up of the beneficiary's own funds.[53]

2.8. Cumulation

(25) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations[54] or the Block Exemption

[48] See section 6.3.6 of the legal basis.

[49] See section 6.3.8 of the legal basis.

[50] See section 6.3.7 of the legal basis.

[51] See section 9.2 of the legal basis.

[52] A private financier can be a natural or legal person operating in the Republic of Lithuania or a foreign country, who contributes to the implementation of the beneficiary's investment project with a portion of the funds not less that specified in this point. The case where the borrower contributes to the implementation of the Investment Project with its own available funds is also considered as the participation of a private financier. The private financier must not be subject to any sanctions (any trade, economic, or financial sanctions, embargoes, or any other restrictive measures) imposed, applied or administered by the United Nations Security Council, the European Union, the Republic of Lithuania, or the Government of the United States of America (including the Office of Foreign Assets Control of the U.S. Treasury Department of the Treasury), the United Kingdom of Great Britain and Northern Ireland.

[53] See section 6.3.10 of the legal basis.

[54] 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

Regulations[55] provided the provisions and cumulation rules of those Regulations are respected.

(26) The Lithuanian authorities confirm that aid under the 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.

(27) The Lithuanian authorities confirm that aid under the measure may be cumulated with aid measures approved in case SA.101400[56]. Those measures were approved by the Commission under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak[57] (COVID-19 Temporary Framework) and the aid under the notified measure may be cumulated with those measures provided the respective cumulation rules are respected.

(28) The Lithuanian 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 Crisis Framework provided the provisions in those specific sections are respected.

(29) The Lithuanian authorities confirm that for the same underlying loan principal aid granted under section 2.3 of the Temporary Crisis Framework will not be cumulated with aid granted under section 2.2 of that framework and vice versa. For different loans, aid granted under section 2.3 may be cumulated with aid granted under section 2.2 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 50(e) of the Temporary Crisis Framework.[58]

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) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

55 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).

56 Commission decision of 10 February 2022 C(2022) 891 final in case SA.101400 (2022/N) – Lithuania – Reintroduction of the “Direct COVID-loans” scheme (SA.60379) and new aid in the form of investment support towards a sustainable recovery (OJ C 82, 18.2.2022, p.16).

57 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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

58 See section 10 of the legal basis.

(30) A beneficiary may benefit in parallel from multiple schemes under section 2.3 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 50(e) of the Temporary Crisis Framework.

2.9. Monitoring and reporting

(31) The Lithuanian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis 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 primary agriculture and in the fisheries sectors on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[59]).

3. ASSESSMENT

3.1. Lawfulness of the measure

(32) 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

(33) 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.

(34) The measure is imputable to the State, since it is administered by the national promotional institute Invega and it is based on a draft Order of the Minister of Economy and Innovation of Republic of Lithuania (recitals (7) and (8)). It is financed through State resources, since it is financed by public funds (recitals (8) and (9)).

(35) The measure confers an advantage on its beneficiaries in the form of subsidised loans not in line with normal market conditions (recital (6)). The measure thus confers an advantage on those beneficiaries which they would not have had and relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(36) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular SMEs and large enterprises active in Lithuania that are affected by the current crisis, excluding the financial sector (recitals (11), (12) and (13)).

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[59] 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 to Commission Regulation (EU) No 1388/2014. For loans, the nominal value of the underlying instrument shall be inserted per beneficiary.

(37) 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.

(38) Therefore, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Lithuanian authorities do not contest that conclusion.

3.3. Compatibility

(39) 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.

(40) 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*".

(41) By adopting the Temporary Crisis Framework on 23 March 2022, the Commission acknowledged (in section 1) that the military aggression against Ukraine by Russia, the sanctions imposed by the EU or its international partners and the counter measures taken, for example by Russia have 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, including in the agri-food sector. Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Lithuania. 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 if it serves 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 military aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as the economic counter measures taken so far, for example by Russia.

(42) The measure aims at facilitating the access of undertakings to liquidity in the form of loans at a time when a wide range of economic sectors are affected, the normal functioning of markets is severely disturbed leading to severe disturbances of the real economy of Member States, including in the economy of Lithuania.

(43) The measure is one of a series of measures conceived at national level by the Lithuanian authorities to remedy a serious disturbance in their economy. The importance of the measure to facilitate access to financing for undertakings affected by the current crisis is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Lithuanian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of subsidised loans*") described in section 2.3 of the Temporary Crisis Framework.

(44) 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 relevant conditions of the Temporary Crisis Framework. In particular:

- Loans under the measure granted in response to the current crisis will not be granted to credit institutions or other financial institutions (recital (16)). The measure therefore complies with point 50(a) of the Temporary Crisis Framework.

- The applicable interest rates for loans granted under the measure are, in any event, not lower than 5% (recitals (23)(d) and (24)(f)), and are, consequently, higher than the base rate (1 year IBOR or equivalent as published by the European Commission[60]) available on 1 February 2022 plus the highest credit risk margin set-out under point 50(b) of the Temporary Crisis Framework. The measure therefore complies with point 50(b) of the Temporary Crisis Framework.

- The loan contracts are signed by 20 December 2022 at the latest and are limited to a maximum of 6 years (recitals (18), (23)(b) and (24)(d)). The measure therefore complies with point 50(d) of the Temporary Crisis Framework.

- The maximum loan amount per beneficiary granted under the measure is limited in line with point 50(e) of the Temporary Crisis Framework (recitals (20) and (21)). The measure therefore complies with point 50(e) of the Temporary Crisis Framework.

- Loans granted under the measure relate to investment and working capital needs (recital (19)). The measure therefore complies with point 50(f) of the Temporary Crisis Framework.

- The cumulation rules set out in point 49 of the Temporary Crisis Framework are respected (recitals (25) to (30)).

(45) The Lithuanian authorities confirm that, pursuant to point 32 of the Temporary Crisis Framework, 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 (recital (4)).

(46) The Lithuanian authorities confirm that, pursuant to point 33 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or c) undertakings active in industries targeted by

[60] Base rates calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6), published on the website of DG Competition: https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html

sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recital (14)).

(47) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (31)). The Lithuanian 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 Crisis Framework, the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (25) to (30)).

(48) 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 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.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION