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**Subject: State Aid SA.107915 (2023/N) – Greece**  
**TCTF: Support scheme for energy-intensive consumers**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 6 November 2023, Greece notified aid for additional costs due to exceptionally severe increases in electricity prices (support scheme for energy-intensive consumers, the ‘measure’ or the ‘scheme’) under the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the ‘Temporary Crisis and Transition Framework’) <sup>(1)</sup>.
- (2) Greece exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (‘TFEU’), in conjunction with Article 3 of Regulation 1/1958 <sup>(2)</sup> and to have this Decision adopted and notified in English.

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<sup>(1)</sup> Communication from the Commission on the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 101, 17.3.2023, p. 3), as amended by Commission Communication C(2023)8045 (OJ C1188, 21.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1188/oj>).

<sup>(2)</sup> 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) Greece considers that the Russian aggression against Ukraine and its direct and indirect effects, including the sanctions imposed and the counter-measures taken for example by Russia have economic repercussions on the entire internal market ('the current crisis'). The crisis has led to a sharp increase in electricity price in Greece. The average wholesale electricity price in Greece went from EUR 53.50 per MWh in the first quarter of 2021 <sup>(3)</sup> (before the gas supplies towards Europe started to be restrained) to EUR 397.20 per MWh in the third quarter of 2022 <sup>(4)</sup>, which represents an increase of more than 600%. Even at the date of adopting this Decision, the electricity price in Greece is still over twice higher than before the crisis (approximatively 111-EUR per MWh).
- (4) Rising energy prices affect virtually every economic activity. However, the Greek authorities consider that this increase in price is particularly not viable for energy-intensive undertakings (recital (14)), given that electricity represents a significant share of their overall production costs. The Greek authorities submit, for example, for a primary aluminium producer, electricity typically makes up 42 % of their total costs. In addition, within the category of energy-intensive undertakings, those belonging to sectors or sub-sectors listed in Annex I of the Temporary Crisis and Transition Framework are the most affected by the current crisis.
- (5) Thus, the measure aims to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy.
- (6) Greece 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 European Economic Area ('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.
- (7) The compatibility assessment of the measure is based on Article 107(3), point (b), TFEU in light of sections 1 and 2.4 of the Temporary Crisis and Transition Framework.

### **2.1. The nature and form of aid**

- (8) The measure provides aid on the basis of a scheme in the form of direct grants.

### **2.2. Legal basis**

- (9) The legal basis for the measure is composed of:
  - (a) Article 61 paragraph 1 of Law 4839/2021 (FEK A 181), which allows for the granting of support for electricity costs, providing that a Joint Ministerial Decision of the Minister of Finance, Environment and Energy determines the details and;

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(3) [European Commission](#), 2021. Quarterly Report on Europe's Electricity Markets (covering first quarter of 2021).

(4) [European Commission](#), 2022. Quarterly Report on Europe's Electricity Markets (covering third quarter of 2022).

- (b) the Joint Ministerial Decision, that sets up the scheme. The Joint Ministerial Decision will be adopted after the adoption of the Commission decision.

### **2.3. Administration of the measure**

- (10) The Renewable Energy Sources Operator and Guarantees of Origin (the ‘DAPEEP’) is responsible for administering the measure <sup>(5)</sup>.

### **2.4. Budget and duration of the measure**

- (11) The estimated budget of the measure is EUR 150 million. All figures used must be gross, that is, before any deduction of tax or other charges.
- (12) The measure will be financed by the State budget.
- (13) Aid may be granted under the measure as from the notification of the Commission’s decision approving the measure until no later than 30 September 2024 after an ex-post verification of the supporting documentation of the beneficiary ; the measure does not include the possibility to grant advance payments in line with point 74 of the Temporary Crisis and Transition Framework and relies on the eligible period as defined in point 72(e) of the Temporary Crisis and Transition Framework.

### **2.5. Beneficiaries**

- (14) The final beneficiaries of the measure are energy-intensive undertakings <sup>(6)</sup>. The beneficiaries qualify as ‘energy-intensive businesses’ when their energy products purchases (including energy products other than natural gas and electricity) amount to at least 3 % of their production value or turnover. To effectuate this calculation, data from the financial accounting reports for the calendar year 2021 should be used. Alternatively, data from the first semester of 2022 may be used, in which case the beneficiary may qualify as an energy-intensive business if its purchases of energy products amount to at least 6 % of its production value or turnover. In addition, beneficiaries must operate in one or more sectors or subsectors listed in Annex I of the Temporary Crisis and Transition Framework <sup>(7)</sup>. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.
- (15) Greece explains, for the avoidance of doubts, that energy-intensive businesses that have concluded a power purchase agreement (‘PPA’) <sup>(8)</sup> as of 1 February 2022 will also be eligible for support under the measure, provided that they fulfil the eligibility conditions, which are described in recital (14). Greece explains that the

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<sup>(5)</sup> The DAPEEP is a 100% State-owned company and is under the supervision of the Greek Government, according to the provisions of Law 4270/2014, which regulates the drawing up and execution of DAPEEP’s budget.

<sup>(6)</sup> For the purpose of the scheme, the beneficiary can be a legal entity that forms part of an undertaking.

<sup>(7)</sup> A beneficiary will be considered as active in a sector or subsector listed in Annex I according to the beneficiary’s classification in the sectoral national accounts or if one or several of the activities it carries out and which are included in Annex I generated more than 50% of its turnover or production value in 2021

<sup>(8)</sup> This includes all potential types of PPAs (financial, with physical delivery...).

reason for this inclusion is that any PPA signed since February 2022 reflects the extraordinarily high market prices that existed in Europe and does not allow electricity sourcing for energy-intensive businesses at competitive prices.

- (16) The expected number of potential beneficiaries under the measure is approximately 20-30.
- (17) Greece confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the Union, 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 Union; or (iii) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions.
- (18) Greece confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the Union or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations <sup>(9)</sup>. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

## **2.6. Sectoral and regional scope of the measure**

- (19) The measure is open to sectors and subsectors described in Annex I of the Temporary Crisis and Transition Framework, except the financial sector. It applies to the whole territory of Greece.

## **2.7. Basic elements of the measure**

- (20) The measure provides aid for additional costs due to exceptionally severe increases in electricity prices.
- (21) The measure only applies to undertakings active in the sectors or subsectors listed in Annex I to the Temporary Crisis and Transition Framework. Besides, only energy-intensive undertakings are concerned by the measure. According to Greece, such a limitation is justified because these businesses operate in economic sectors that are of particular importance to the economy since they produce products and raw materials that are needed, for instance for the food industry and for various strategic applications, including in the defence sector and for the production of technologies that will be needed for the green and digital transitions. That way, the measure does not lead to an artificial limitation of the potential beneficiaries.
- (22) The estimated budget for the measure is EUR 150 million.
- (23) Greece explains that if the requests for aid of all eligible applicants exceed the budget of the scheme, the DAPEEP shall proportionately adjust by reducing the aid amount granted and paid to the beneficiaries.

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<sup>(9)</sup> 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).

- (24) The amount of aid is calculated on the actual consumption of electricity incurred by the applicant for the purchase of electricity during the period from 1 April 2023 until 31 June 2024 (the ‘eligible period’). The measure does not cover the consumption of natural gas or heating and cooling.
- (25) The maximum aid amount will be determined based on the aid per unit initially set at EUR 50/MWh for the actual consumption of electricity during the eligible period which may not exceed 70 % of the beneficiary’s consumption for the same period in 2021. The aid amount calculated through this method is with no prejudice to the maximum aid intensity and aid amount set out in recital (27) below, that will be set based on the eligible costs calculated as explained in recital (29) below.
- (26) The Greek authorities explain that the reference unit aid is set at a 50 €/MWh in order to allow predictability for energy-intensive consumers. It also avoids distortion of competition between suppliers given that it ensures that beneficiaries retain the incentive to choose a supplier with competitive prices while preventing abuse of the scheme.
- (27) Furthermore, the aid will be subject to the aid ceilings provided for in point 73(c) of the Temporary Crisis and Transition Framework. The overall aid per beneficiary may not exceed 80 % of the beneficiary’s eligible costs, and the overall aid per undertaking per Member State may not exceed EUR 150 million at any point in time.
- (28) Eligible costs within the eligible period are calculated according to the following formula:  $Y = (p(t) - p(\text{ref}) \times 1.5) \times q$
- (a) Where: Y = eligible cost during the eligible period (from 1 April 2023 until 30 June 2024) (in EUR).
  - (b) (t) = the period between 1 April 2023 and 30 June 2024 at the latest (the ‘eligible period’)
  - (c) (ref) = the period from 1 January 2021 to 31 December 2021 (the ‘reference period’)
  - (d) P(t) = average price per unit of electricity consumed by the beneficiary (in EUR/MWh) in the eligible period (from 1 April 2023 until 30 June 2024). It does not include taxes, charges, grid tariff, refunds of taxes and duties.
  - (e) p(ref) = average price per unit of electricity consumed by the beneficiary on average in the reference period (from 1 January 2021 to 31 December 2021) in EUR/MWh, excluding taxes, charges, grid tariff, refund of taxes and duties.
  - (f) q = consumed quantity, i.e., the number of units of electricity that the beneficiary purchased from external suppliers as a final consumer (in MWh) during the eligible period. Only energy consumption by end users will be counted, sales and own production are excluded. The energy consumption of the energy sector itself and losses occurring during transformation and distribution of energy are excluded. The Greek authorities explain that the quantity of electricity used to calculate the eligible costs cannot exceed 70 % of the beneficiary’s consumption for the same period in 2021.

- (29) In addition, aid will only be granted on the condition that the beneficiary's EBITDA <sup>(10)</sup>, excluding the aid, is reduced by 40 % in the eligible period compared to the same period in 2021, or that the beneficiary has a negative EBITDA (excluding aid) in the eligible period.
- (30) Besides, the beneficiary EBITDA in the eligible period, including the overall aid, shall not exceed 70 % of the beneficiary's EBITDA compared to the same period in 2021. In cases where the EBITDA was negative in the reference period, the aid may not lead to an increase of EBITDA in the eligible period above 0.
- (31) The aid will only be granted after an ex-post verification based on actual data that will be submitted by the beneficiaries by way of supporting documentation, in order to verify the relevant requirements, in particular those of recitals (29) and (30), and aid ceilings as described in recital (27). To this end, the beneficiaries will submit to the DAPEEP before 31 July 2024 any documentation supporting the application (including a report from a certified or independent financial auditor) to demonstrate that the aforementioned conditions, in particular those of recitals (29) and (30), are fulfilled.
- (32) The aid will be channelled also through energy suppliers in the form of discount credited to the accounts of the beneficiaries. The scheme is open to any energy supplier. Energy suppliers will be entitled to receive payments from the DAPEEP on the basis of a final statement to the latter. The final statement should be sent to the DAPEEP before 30 July 2024. This final statement shall include the amount of the beneficiaries' actual total electricity consumption during the eligibility period. Beneficiaries purchasing electricity directly on the wholesale market, without a separate energy supplier acting as an intermediary, will be subject to the same procedure, whereby the beneficiaries act as if they were electricity suppliers.
- (33) The Greek authorities explain that by doing this ex-post verification, no aid exceeding the maximum aid level or not meeting the eligibility conditions will be granted by the DAPEEP. Furthermore, electricity suppliers will only be entitled to receive payments from the DAPEEP following the notification of the amount due per beneficiary by means of the financial statement. Electricity suppliers will only recover fully from the DAPEEP the aid amount once invoiced to the beneficiary. Effectively, suppliers are in fact reimbursed by the DAPEEP for the aid paid to beneficiaries.
- (34) In addition, the Greek authorities confirm that, when the overall aid per undertaking per Member State exceeds EUR 50 million, the beneficiary will be required to submit to the granting authority, within one year from the moment of granting the aid, a plan that specifies how it will reduce the carbon footprint of its energy consumption or how it will implement any of the requirements related to the environmental protection or security of supply described in point 38 of the Temporary Crisis and Transition Framework.

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<sup>(10)</sup> EBITDA means earnings before interest, taxes, depreciation, and amortisation, excluding one off impairments.

## 2.8. Compliance with relevant provisions of Union law

- (35) Greek authorities confirm that the measure does not by itself, or by the conditions attached to it or by its financing method constitute a non-severable violation of Union law.

## 2.9. Cumulation

- (36) The Greek authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations<sup>(11)</sup> or the General Block Exemption Regulation<sup>(12)</sup> provided they relate to different eligible costs, or if they relate to the same eligible costs provided that the provisions and cumulation rules of those Regulations are respected.
- (37) The Greek authorities confirm that aid under the measure may be cumulated with aid under a measure approved by the Commission under the COVID-19 Temporary Framework<sup>(13)</sup> provided the respective cumulation rules are respected.
- (38) The Greek 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 and Transition Framework provided the provisions in those specific sections are respected.
- (39) Aid under the measure may be cumulated with aid under section 2.1 of the Temporary Crisis and Transition Framework provided the maximum applicable ceilings per undertaking as described in recital (27) are not exceeded.
- (40) Greece confirms that aid granted under the Temporary Crisis and Transition Framework and the previous Temporary Crisis Framework cannot exceed at any

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<sup>(11)</sup> 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) 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).

<sup>(12)</sup> 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 (EU) 2022/2472 of 14 December 2022 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 327, 21.12.2022, p. 1) and Commission Regulation (EU) 2022/2473 of 14 December 2022 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 327, 21.12.2022, p. 82).

<sup>(13)</sup> 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).

point in time the aid ceilings per undertaking provided by the Temporary Crisis and Transition Framework in section 2.4 for the same eligible period.

## **2.10. Monitoring and reporting**

- (41) The Greek authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis and Transition Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting <sup>(14)</sup>).

## **3. ASSESSMENT**

### **3.1. Existence of State aid**

- (42) 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.
- (43) The measure is imputable to the State, since it is administered by the DAPEEP (recital (10)) and it is based on the Law 4839/2021 (FEK A 181) and a Joint Ministerial Decision of the Minister of Finance, Environment and Energy (recital (9)). It is financed through State resources, since it is financed by public funds (recital (12)).
- (44) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (8)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (45) The advantage granted by the measure is selective, since it is awarded only to energy-intensive undertakings acting in sectors and sub-sectors listed in Annex I of the Temporary Crisis and Transition Framework, including those that have concluded a PPA after 1 February 2022 (recitals (14) and (15)), excluding the financial sector (recital (19)).
- (46) 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.
- (47) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Greek authorities do not contest that conclusion.

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<sup>(14)</sup> Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) 2022/2472 and Annex III to Commission Regulation (EU) 2022/2473.



### 3.2. Compatibility

- (48) 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.
- (49) Pursuant to Article 107(3), point (b), TFEU, the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (50) By adopting the Temporary Crisis and Transition Framework, the Commission acknowledged (in section 1) that the current crisis has 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.
- (51) Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Greece. The Commission concluded that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3), point (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 current crisis.
- (52) The measure aims at mitigating the impact of exceptionally severe increases in electricity prices 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 Greece.
- (53) The measure is one of a series of measures conceived at national level by the Greek authorities to remedy a serious disturbance in their economy. The importance of the measure to compensate for the severe increase in electricity prices is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the Greek economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Aid for additional costs due to exceptionally severe increases in natural gas and electricity prices”) described in section 2.4 of the Temporary Crisis and Transition Framework.
- (54) 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 and Transition Framework. In particular:
- a) Aid will be granted under the measure until 30 September 2024 and only after an ex-post verification of the supporting documentation of the beneficiary (recitals (13) and (31)). In line with footnote 93 of the Temporary Crisis and Transition Framework, Greece decided not to include the possibility to grant advance payments in line with point 74 of such framework (see recital (13)), and the eligible period as defined in point 72(e) of such framework is respected (see recital (24)). The measure therefore complies with point 72(a) the Temporary Crisis and Transition Framework.
  - b) Aid channelled through an energy supplier, as described in recital (32), complies with point 34 of the Temporary Crisis and Transition Framework,

since the Greek authorities confirm that competition between suppliers is preserved and that aid is passed on to the final beneficiaries. By setting a maximum reference unit aid (at maximum 50 €/MWh), distortion of competition between suppliers is avoided given that it ensures that beneficiaries retain the incentive to choose a supplier with competitive prices while preventing any abuse of the scheme (see recitals (25)-(26)). In addition to this, the scheme is open to all energy suppliers (see recital (32)). The Commission thus considers that the competition intensity between suppliers will not be affected. In addition, as described in recital (33), electricity suppliers will only recover the aid amount fully from the DAPEEP once it is invoiced to the beneficiary and are thus merely reimbursed by the DAPEEP for the aid granted to beneficiaries. Therefore, the Commission considers that the aid will be passed on to the final beneficiaries.

- c) The aid takes the form of direct grants (recital (8)); the nominal value of direct grants does not exceed the applicable aid intensity and aid ceilings laid down in point 73(c) of the Temporary Crisis and Transition Framework (point g) below); all figures used are gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 72(b) of the Temporary Crisis and Transition Framework.
- d) Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (11). As described in recital (19), only energy-intensive undertakings may benefit from the measure, given that electricity represents a significant share of their overall production costs. In addition, the sectoral scope of the measure is designed so as to include sectors and subsectors described in Annex I of the Temporary Crisis and Transition Framework, except the financial sector (recital (19)). According to Greece, such a limitation is justified because these businesses operate in economic sectors that are of particular importance to the economy since they produce products and raw materials that are needed for various strategic applications, including in the defence sector and for the production of technologies that will be needed for the green and digital transitions (recitals (4) and (21)). Moreover, Greece explains that energy-intensive businesses operating in sectors or subsectors of Annex I of the Temporary Crisis and Transition Framework that have concluded a PPA after 1 February 2022 can also be eligible for support under the measure. Greece explains that the reason for this inclusion is that any PPA signed since February 2022 reflects the extraordinarily high market prices that existed in Europe and does not allow electricity sourcing for energy-intensive businesses at competitive prices (recital (15)). The Commission considers that the measure is designed broadly and does not lead to an artificial limitation of potential beneficiaries. The measure therefore complies with point 72(d) of the Temporary Crisis and Transition Framework.
- e) The eligible costs are calculated in line with point 72(e) of the Temporary Crisis and Transition Framework over the period from 1 April 2023 until 30 June 2024 (recital (24)) according to the formula as described in recital (28) and with reference to the current consumption of beneficiaries, over the calendar year 2023. In addition, the quantity of electricity used to calculate the eligible costs does not exceed 70 % of the beneficiary's consumption for

the same period in 2021 (recital (25)). The measure therefore complies with point 72(e) of the Temporary Crisis and Transition Framework.

- f) Aid under the measure will be granted to ‘energy-intensive business’ defined as a legal entity where the purchases of energy products (including energy products other than natural gas and electricity) amount to at least 3% of the production value or turnover, based on data from the financial accounting reports for the calendar year 2021 (recital (14)). Alternatively, data from the first semester of 2022 may be used, in which case the beneficiary may qualify as energy-intensive business if the purchases of energy products amount to at least 6 % of the production value or turnover (recital (14)). The notion of energy-intensive business is therefore defined in line with footnote 101 of the TCTF.
- g) As mentioned in recital (19), the measure applies only to energy-intensive businesses active in sectors or subsectors covered by Annex I to the Temporary Crisis and Transition Framework. As indicated in recital (27), the overall aid intensity for the beneficiaries will not exceed 80 % of the eligible costs and the overall aid amount will not exceed EUR 150 million per undertaking at any given point in time. In addition, beneficiaries are only those that have either a reduction in EBITDA (excluding aid) of at least 40 % in the eligible period <sup>(15)</sup> compared to the same period in 2021, or a negative EBITDA (excluding aid) in the eligible period (recital (29)). The measure therefore complies with point 73(c) of the Temporary Crisis and Transition Framework.
- h) The beneficiaries, which correspond to the beneficiaries of aid under point 73 (c) of the Temporary Crisis and Transition Framework, shall have an EBITDA in the eligible period, including the overall aid, that does not exceed 70 % of their EBITDA in the same period in 2021 (see recital (30)). In cases where the EBITDA was negative in the reference period, the aid may not lead to an increase of EBITDA in the eligible period above 0 (see recital (30)). The measure therefore complies with point 73(d) of the Temporary Crisis and Transition Framework.
- i) Aid may be cumulated with aid under section 2.1 of the Temporary Crisis and Transition Framework provided the maximum ceilings in point 73(c) of that Framework are not exceeded (see recital (39)). The measure therefore complies with point 72(g) of the Temporary Crisis and Transition Framework.
- j) The Greek authorities confirmed that when the overall aid per undertaking per Member State exceeds EUR 50 million, the beneficiary will be required to submit to DAPEEP, the granting authority, within one year from the moment the aid is granted, a plan that specifies how it will reduce the carbon footprint of its energy consumption or how it will implement any of the requirements related to environmental protection or security of supply described in point 38 of the Temporary Crisis and Transition Framework

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<sup>(15)</sup> As defined in recital (24), the eligible period refers to 1 April 2023 until 30 June 2024.

(recital (34)). The measure thus complies with point 88 of the Temporary Crisis and Transition Framework.

- (55) State aid measures that entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law cannot be declared compatible with the internal market <sup>(16)</sup>.
- (56) Greece has confirmed that the measure does not by itself, or by the conditions attached to it or by its financing method constitute a non-severable violation of Union law (recital (35)). In addition, the Commission has no indications of any possible breach of Union law that would prevent the notified measure from being declared compatible with the internal market.
- (57) Therefore, the Commission considers that the measure does not infringe any relevant provisions of Union law.
- (58) As regards section 2.4, Greece confirms that aid granted under the Temporary Crisis and Transition Framework and the Temporary Crisis Framework cannot exceed the aid ceilings provided by the Temporary Crisis and Transition Framework for the same eligible period at any point in time (see recital (40)).
- (59) The Greek authorities confirm that, as required by point 51 of the Temporary Crisis and Transition 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 (6)).
- (60) The Greek authorities confirm that, as required by point 52 of the Temporary Crisis and Transition Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the Union, 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 Union; or
  - (c) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions (recital (17)).
- (61) The Greek authorities confirm that the monitoring and reporting requirements set out in section 3 of the Temporary Crisis and Transition Framework will be respected (recital (41)). The Greek authorities further confirm that aid under the measure may only be cumulated with other aid if the specific provisions in the relevant sections of the Temporary Crisis and Transition Framework, the previous Temporary Crisis Framework and the COVID-19 Temporary Framework and the cumulation rules in the relevant Regulations and applicable Communications are respected (recital (38)).

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<sup>(16)</sup> Judgment of 31 January 2023, *Commission v Braesch and Others*, C-284/21 P, EU:C:2023:58, paras, 96 *et seq.*

- (62) The Commission therefore concludes that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and is compatible with the internal market pursuant to Article 107(3), point (b) TFEU, since it meets all the relevant conditions of the Temporary Crisis and Transition Framework.

#### **4. CONCLUSION**

The Commission has decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3), point (b) of the Treaty on the Functioning of the European Union.

[The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.]

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President