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**Subject: State Aid SA.112546 (2023/N) – Italy
RRF - TCTF: Interventions to support investments in strategic
sectors for the transition towards a net zero emissions economy**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 22 September 2023, Italy notified aid for accelerated investments in sectors strategic for the transition towards a net-zero economy (the ‘measure’) ⁽¹⁾ under the Temporary Crisis and Transition Framework. Italy submitted additional information on 19 December 2023, 11 January, 9, 15, 22 and 23 February 2024.
- (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

⁽¹⁾ The notification, initially registered under SA.109439, concerned a measure under section 2.6 of the 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 on 20 November 2023 (OJ C 1188, 21.11.2023, p. 1, “Temporary Crisis and Transition Framework”), and a measure under section 2.8 of that Framework. At the request of Italy on 9 February 2024, the case was split. This Decision only concerns the measure notified under section 2.8 of the Temporary Crisis and Transition Framework, registered under SA.112546.

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

2. DESCRIPTION OF THE MEASURE

- (3) Italy 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 current crisis 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.
- (4) The Italian authorities have explained that structurally, Italy cannot satisfy the demand of low-carbon technologies, which is progressively increasing in the last years ⁽³⁾. In particular, on the photovoltaic market, the market shares of Italian undertakings (and of Europe in general) are far below those of Asian manufacturers, with Europe assuming the role of price-taker as it is dependent on the Asian market for the supply of cells and other materials. In the wind turbines markets, high logistics costs and shortage of critical materials hinder new players from entering the market. Therefore, according to the Italian authorities, the support to sectors strategic for the transition towards a net-zero economy has strategic importance for accelerating investments leading to such transition, as also acknowledged by the Commission ⁽⁴⁾.
- (5) Italy 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.
- (6) The compatibility assessment of the measure is based on Article 107(3), point (c), TFEU in light of Sections 1 and 2.8 of the Temporary Crisis and Transition Framework.

2.1. The nature and form of aid

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

2.2. Legal basis

- (8) The legal basis for the measure is the Decree of the Italian Minister of Economic Development of 9 December 2014 "Laying down the rules for the Development

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

⁽³⁾ Enel Foundation, report of 7 February 2023 "*La filiera italiana delle tecnologie per le tecnologie rinnovabile e smart verso il 2030*", of, available at the link https://www.enelfoundation.org/content/dam/enel-foundation/topics/2023/02/EF_Filiera%20tec%20ren%202030%20finale.pdf

⁽⁴⁾ Communication from the Commission of 1.2.2023, A green deal industrial plan for the net-zero age, COM(2023)62 final.

contracts”, as amended by Decree of 14 September 2023 of the Minister of Enterprises and Made in Italy.

2.3. Administration of the measure

- (9) The granting authority is the Ministry of Enterprises and Made in Italy. The *Agenzia nazionale per l'attrazione degli investimenti e lo sviluppo d'impresa S.p.A.* (“Invitalia”) ⁽⁵⁾ is responsible for administering the aid scheme.

2.4. Budget and duration of the measure

- (10) The estimated budget of the measure is EUR 1.1 billion and is co-financed by the Recovery and Resilience Facility (RRF) ⁽⁶⁾ and the State budget.
- (11) The Italian authorities confirmed that 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 2025.

2.5. Beneficiaries

- (12) The final beneficiaries of the measure are SMEs ⁽⁷⁾ and large enterprises ⁽⁸⁾. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.
- (13) Beneficiaries are eligible if they, amongst others:
- (a) are incorporated and registered in the Business Register ⁽⁹⁾;
 - (b) are not undertakings in difficulty ⁽¹⁰⁾;
 - (c) have confirmed that in the two years preceding the application for aid, they have not carried out a relocation to the establishment in which the aided investment is to take place, and have committed not to carry out such relocation up to a period of two years after completion of the investment.
- (14) 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

⁽⁵⁾ A governmental agency owned by the Italian Ministry of Economy and Finance.

⁽⁶⁾ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

⁽⁷⁾ 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).

⁽⁸⁾ As defined in Article 2, point 24, of Commission Regulation (EU) No 651/2014.

⁽⁹⁾ Undertakings established outside Italy must be established in accordance with the rules of their State of residence and must be registered in their respective Business Register. Such undertakings must be able to demonstrate, at the moment when the payment of the first instalment of the aid is requested, that they have at least one office on the Italian territory.

⁽¹⁰⁾ As defined under the Communication from the Commission – Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1)

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.

- (15) The Italian authorities confirm 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⁽¹¹⁾. 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

- (16) The measure is open to all sectors except the agriculture, forestry and fishing (ATECO⁽¹²⁾ code A), construction (ATECO code F), financial and insurance (ATECO code K) and real estate (ATECO code L) sectors. It applies to the whole territory of Italy.

2.7. Basic elements of the measure

- (17) The purpose of the measure is to grant aid for investments related to:
- (a) the production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps, electrolyzers, and equipment for carbon capture usage and storage;
 - (b) the production of key components, provided that they are designed and primarily used as direct input for the production of the equipment defined under (a)⁽¹³⁾;

⁽¹¹⁾ 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).

⁽¹²⁾ The Italian equivalent of NACE codes.

⁽¹³⁾ The Italian authorities explain that beneficiaries will be required to demonstrate to Invitalia (the granting authority) that at least 50% of the turnover generated by each project is planned to be achieved with undertakings producing the equipment referred to in recital (17)(a). The Italian authorities also submitted a list of key components that are eligible to receive aid under the measure: (i) for the production of batteries, cathode (cathode active material (pCAM)/cathode active material (CAM) precursor); anode (anode active material precursor (pAN)/anode active material (AN)); cathode and anode additives; separators; electrolyte (organic, aqueous, mixed, ionic liquids, deep eutectic solvents) and solid (polymeric, ceramic, composite); binders (polymeric or natural) and solvents (organic or aqueous); conductive additives, flame retardants; SEI (Solid Electrolyte Interphase) layer; battery housings, enclosures and other plastic structural and accessories (tubes, sheets, plates, terminals, safety vent); battery management system (BMS); battery module; battery; battery tabs/metal lead plate; busbars; electrical circuit, wiring/interconnections (power and control); current collectors (copper or aluminium sheet or foil); materials (blanks, precursors) for batteries; hydrofluoric acid; sulphuric acid; phosphoric acid; salts of alkali metals (lithium, sodium); salts of transition metals (nickel, manganese, cobalt, iron, vanadium); oxides, phosphates, sulphides, carbonates; carbon materials, graphite, carbon nanotubes, graphene, silicon; secondary raw materials from battery recycling; battery machinery and equipment, binders, coatings and additives, carbon plates, bipolar plates; cation or anion exchange membranes/separators; electrode materials (porous graphite felt, carbon felt, carbon fabric); electrolyte solution storage tanks; electrolyte solutions containing one or more electroactive redox pair systems (inorganic or organic); gaskets; pumps for circulating the electrolyte solution; heat exchanger; filling with phase-change material; thermally insulating materials; electrically insulating materials; DC power electronic components; DC electrical

protection components (fuses, disconnectors, contactors); machinery for mixing electrode dispersions; production lines for electrode films (coating, evaporation, calendaring, laminating, cutting); machinery for dispensing electrolyte into cells; cell assembly machinery (cylindrical, pouch, prismatic); cell forming systems; systems for assembling battery modules; systems for assembling electrical components; innovative and/or dry production systems (extrusion, photo cross-linking, thermal cross-linking, 3D printing, ALD, CVD, pyrolysis); cell, battery and module testing equipment; battery pack; battery pack control system; battery structural case; battery cells; battery heating and cooling system; battery thermal management (pre-heating); cooling module; auxiliary water pumps for battery pack cooling; battery pack ventilation system; battery safety sensor (pressure); auxiliary batteries; auxiliary battery for water pumps (battery pack cooling); coolant control valve; cooled condenser; battery pack cooling system; additional heating system; charging connectors; battery charging port; transformers; power electronics; converters; switchboards; high-pressure gas tanks; stainless steel piping; stainless steel connectors and fittings; manual on/off valves; solenoid valves; radiators; humidifiers; containers; pressure regulators and pressure gauges; temperature regulators and meters; volumetric flow regulators and meters; gas detection system; ATEX components; compressors; operational and emergency ventilation; electronic control software; electronic control units; instruments and sensors; stacks and related components; gas filtration system; gas dryers; diaphragms; blowers; electric heaters; membranes; catalysers; machinery and equipment for production lines involved in the manufacturing of batteries. (ii) For the production of solar panels, aluminium frame; glass cover; solar cells; encapsulator; back sheet; junction box; polysilicon (polycrystalline silicon); silicon crystals; silicon thin films; wafers; crystal puller; dicing saws and diamond wires; metallisation pastes (silver and aluminium) for the production of photovoltaic cells, laminar films and inverters; sodium hydroxide; hydrofluoric acid; phosphorus oxychloride; boron tribromide; silane; ammonia; diffusion furnaces; rolling mills; stringers; contact screen printing machines; machinery for PECVD deposition of thin films (semiconductors, metals, oxides and anti-reflection); solar simulators; automatic optical and electronic wafer/cell quality control systems; machinery and equipment for production lines involved in the manufacturing of solar panels. (iii) For the production of wind turbines, nacelle; steel structure; crane and elements; crane rails; main axis; bearings; gearbox; coupling elements; generator (including permanent magnets for wind power plants); cables; cooling system (air, oil); transformer; switch cabinets; electrical protection; controllers; motors for nacelle tuning; oscillation damper; blade; blade cup; motors for blade rotation; lightning protection devices; stretching bolts; sensors (including bat sensors); steel body; control cabinet; UPS (non-interruptible power supply); current transformers; voltage transformers; circuit breakers; control building; control elements; measuring instruments; monopiles (and other foundation structures); rotor hubs; rotor blades and rotor shafts; spins multiplier; support tower; foundations and cables; power line; pitch angle actuator; nosepiece; main mast; overhead warning lights; mechanical brakes; power converter, protection and disconnection anemometers; yaw drive unit; stator; heat exchanger; machinery and equipment for production lines involved in the manufacturing of wind turbines. (iv) For the production of heat pumps, 4-way valve gas and liquid control unit; casing elements; compressor support unit; control panel support coordination unit; refrigerants; refrigerant filters; inverters; electric motors (including permanent magnets); electronic expansion valve (EEV); valve technology; evaporator; evaporator antifreeze unit; fixing support unit; gas piping system; heat exchanger (including fans); heat exchanger support unit; heat pump frame system; liquid piping system; oil separator support unit; oil separator tank; ventilator coordinator support unit; water pump support unit; condenser; accumulator; crankcase heater; electronically commutated motor; reversing valve; thermostatic expansion valve (TXV); thermostat; defrosting system; refrigeration coils; ATEX components for flammable refrigerants; switchboards; measurement and control sensors; software for automatic EEV valve management; refrigerant leak detection sensors; solenoid valves for refrigerant distribution; machinery and equipment for production lines involved in the manufacturing of heat pumps. (v) For the production of electrolyzers, transformers; power electronics; converters; switchboards; high and low pressure gas cylinders; stainless steel piping; stainless steel connectors and fittings; manual on/off valves; solenoid valves; separators; radiators and evaporators; containers; cooling system deionisers; pressure regulators and meters; temperature regulators and meters; flow regulators and meters; gas detection system; ATEX components; compressors; operational and emergency ventilation; electronic control software; electronic control units; tools and sensors; fuel cell stack and related components; gas filtration system; gas dryers; anodes; cathodes; diaphragms; bipolar plates; heat exchangers; circulation pumps; blowers; thermally insulating materials; electric heaters; hydrogen cooling; hydrogen purification; membranes; materials and polymers for membranes; catalysers; machinery and equipment for production lines involved in the manufacturing of electrolyzers. (vi) For the production of CCUS, air separation plants and compressors; liquefaction

- (c) the production or recovery of related critical raw materials necessary for the production of the equipment and key components referred to in points (a) and (b) ⁽¹⁴⁾.
- (18) Each investment can be carried out either by a single undertaking or by a proposing undertaking and other participating undertakings, up to a maximum of five undertakings per project. Investments should be completed in 36 months from the communication that aid has been granted. Works on the investment plan must start ⁽¹⁵⁾ only after the aid application has been submitted.
- (19) The total eligible costs of each investment project must exceed EUR 20 million. In case of projects implemented by more than one undertaking the eligible costs incurred by the proposing undertaking must exceed EUR 10 million, while the eligible costs of each of the participating undertakings must exceed EUR 1.5 million.
- (20) Eligible costs must concern tangible assets (such as land, building, machinery and equipment) and intangible assets ⁽¹⁶⁾. The Italian authorities confirmed that intangible assets must: (1) remain associated with the area concerned and must not be transferred to other areas; (2) be used primarily in the relevant production facility receiving the aid; (3) they must be amortisable; (4) be purchased under market conditions from third parties unrelated to the buyer; (5) be included in the assets of the undertaking that receives the aid; and (6) must remain associated with the project for which the aid is awarded for at least five years (or three years for SMEs).

plants; calcium sorbents for high temperature in sustainable processes (i.e. Calcium Looping); modular air contactors for direct air capture systems; CO₂ capture agents (secondary and tertiary amines, liquid solvents, etc.); selective polymeric membranes for CO₂ separation; porous adsorbent materials for the Pressure Swing Adsorption (PSA) process (zeolites, activated carbons, MOFs); Metal oxides for the production of highly concentrated oxygen by Chemical Looping Combustion (CLC); hydroxide solutions of alkaline and alkaline earth metals (e.g. KOH, NaOH); salt solutions from industrial processes high in Na⁺, K⁺, Ca⁺⁺ ions; slag from industrial processes rich in alkaline and alkaline earth metals; high-pressure autoclaves for accelerated CO₂ mineralisation processes; absorption and stripping columns for CO₂ capture from hard-to-abate processes; hydraulic pumps for fluid circulation; heat exchangers for compressor intercooling stages; heat exchangers for heat recovery; automatic valves; temperature and pressure regulators; insulating material for high temperature CO₂ capture reactors (i.e. Calcium Looping process); heating elements for direct electrification of thermal processes (heating rods, linear elements, ceramic shells); catalysts for CO₂ reuse, supported on monoliths or in pellets or powders; gas/solid separation units (cyclones); dragged bed reactors; fluidised bed reactors; absorption agents; machinery and equipment for production lines involved in the manufacturing of carbon capture, utilisation and storage.

⁽¹⁴⁾ As defined in Annex IV of Commission Regulation (EU) No 651/2014.

⁽¹⁵⁾ The Italian authorities explain that start of works means either the start of construction work on the investment or the first firm commitment to order equipment or another commitment that makes the investment irreversible, whichever is earlier. Buying of land and preparatory works such as obtaining permits and conducting preliminary feasibility studies are not considered as start of works.

⁽¹⁶⁾ These concern IT software, patents, licenses, know-how and other unpatented technical knowledge that concern new products and new production processes. For large undertakings, eligible costs related to intangible assets cannot exceed 50% of the total investment costs.

- (21) The Italian authorities confirmed that the aid intensity may not exceed 15% of the eligible costs and the overall aid amount may not exceed EUR 150 million per undertaking in Italy. However:
- (a) for investments in assisted areas designated in the applicable regional aid map for Italy ⁽¹⁷⁾ in accordance with Article 107(3), point (c), TFEU ('c' areas), the aid intensity may be increased to 20% of the eligible costs and the overall aid amount may not exceed EUR 200 million per undertaking in Italy;
 - (b) for investments in assisted areas designated in the Italian regional aid map in accordance with Article 107(3), point (a), TFEU ('a' areas), the aid intensity may be increased to 35% of the eligible costs and the overall aid amount may not exceed EUR 350 million per undertaking in Italy;
 - (c) for investments made by small enterprises, the aid intensities may be further increased by 20 percentage points and for those investments made by medium-sized enterprises, the aid intensities may be increased by 10 percentage points.
- (22) The Italian authorities confirmed that beneficiaries must commit to maintain the investments in the area concerned for at least five years, or three years for SMEs, after the completion of the investment. Such a commitment should not prevent the replacement of plant or equipment that has become outdated or broken within this period, provided that the economic activity is retained in the area concerned for the minimum period. However, no further aid may be awarded to replace that plant or equipment.
- (23) The Italian authorities also confirmed that, before granting the aid and on the basis of the information provided by the beneficiaries in Annex II of the Temporary Crisis and Transition Framework, the granting authority must verify the concrete risks of the productive investment not taking place within the EEA and that there is no risk of relocation within the EEA.

2.8. Compliance with relevant provisions of Union law

- (24) The Italian authorities confirmed that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law.

2.9. Cumulation

- (25) Aid granted under the measure can be cumulated with State aid in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable under any of the relevant rules. Under no circumstances will the total aid amount exceed 100% of the eligible costs.

⁽¹⁷⁾ SA.100380 – Regional aid map for Italy (1 January 2022 – 31 December 2027) (OJ C 60, 4.2.2022, p. 1), with amendments as approved by Commission decisions in cases SA.101134 - Amendment to the Regional aid map for Italy (1 January 2022 – 31 December 2027) (OJ C 60, 4.2.2022, p. 1) and SA.107312 - Second amendment to the regional aid map for Italy (1 January 2022 – 31 December 2027) - increased aid intensities for territories identified for support from the JTF (“Italian regional aid map”) (OJ C 242, 7.7.2023).

2.10. Monitoring and reporting

- (26) The Italian 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 6 months from the moment of granting ⁽¹⁸⁾).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (27) 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

- (28) 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.
- (29) The measure is imputable to the State, since it is administered by Invitalia and it is based on the legal basis described in recital (8). It is financed through State resources, since it is financed by public funds (recital (10)).
- (30) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (7)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. undertakings that meet the requirements in recitals (12) and (13), and that are active in the eligible sectors (recital (16)). Other undertakings in a comparable legal and factual situation (considering that all economic operators should in principle cover their own costs) are not eligible for aid and thus will not receive the same advantage. It is also selective since it only favours the production of certain goods (recital (17)).
- (32) 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.
- (33) 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.

⁽¹⁸⁾ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014.

3.3. Compatibility

- (34) 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.
- (35) Pursuant to Article 107(3), point (c), TFEU, the Commission may declare compatible with the internal market ‘aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest’.
- (36) The current crisis has demonstrated the urgent need to reduce dependency on imports of fossil fuels and to accelerate the energy transition. In that context, the Commission considers that Member States may need to take additional measures to address the productive investment gap in sectors strategic for the transition towards a net-zero economy in order to achieve the Union’s climate targets. The adoption of the Temporary Crisis and Transition Framework demonstrates the Commission’s view that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3), point (c), TFEU for a limited period of time if it contributes to accelerating the economic transition and addressing the productive investment gap in sectors strategic for the transition towards a net-zero economy by providing incentives for their fast deployment, also considering global challenges posing a threat of new investments in these sectors being diverted in favour of third countries outside the EEA.
- (37) The Commission considers that the measure is necessary, appropriate and proportionate in the current context and can be declared compatible with the internal market on the basis of Article 107(3), point (c), TFEU. In particular:
- The measure is aimed at investment projects with strategic importance for the transition towards a net-zero economy. The measure will support the following activities: the production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture usage and storage (recital (17)(a)); the production of key components designed and primarily used as direct input for the production of the equipment (recital (17)(b)); the production or recovery of related critical raw materials necessary for the production of the equipment and key components (recital (17)(c)). The measure therefore complies with point 85(a) of the Temporary Crisis and Transition Framework.
 - The aid is granted under the measure on the basis of a scheme with an estimated budget (recital (10)). The measure therefore complies with point 85(b) of the Temporary Crisis and Transition Framework.
 - Aid under the measure can be granted until 31 December 2025 at the latest (recital (11)). The measure therefore complies with point 85(c) of the Temporary Crisis and Transition Framework.
 - The measure provides that beneficiaries must apply for aid before the start of works and must provide the information required in Annex II of the Temporary Crisis and Transition Framework (recitals (18) and (23)). The measure therefore complies with point 85(d) of the Temporary Crisis and Transition Framework.

- Aid under the measure will be granted in the form of direct grants (recital (7)). The measure therefore complies with point 85(e) of the Temporary Crisis and Transition Framework.
- The calculation of eligible costs as set out in recital (20) fulfils the requirements of point 85(f) of the Temporary Crisis and Transition Framework.
- The aid intensities and the overall aid amounts under the measure (recital (21)(a) and (21)(b)) correspond to the ceilings in point 85(g) of the Temporary Crisis and Transition Framework. For investments made by small enterprises, the aid intensities may be further increased by 20 percentage points and for those investments made by medium-sized enterprises, the aid intensities may be increased by 10 percentage points (recital (21)(c)). The measure therefore complies with point 85(h) of the Temporary Crisis and Transition Framework.
- Italy commits that beneficiaries under the measure will maintain the investments in the area concerned for at least five years, or three years for SMEs, after the completion of the investment, and to respect the additional conditions set in line with point 85(i) of the Temporary Crisis and Transition Framework (recital (22)). The measure therefore complies with point 85(i) of the Temporary Crisis and Transition Framework.
- Italy commits that before each individual grant of aid under the scheme, the granting authority will verify, on the basis of the information provided by the beneficiaries, the concrete risks of the productive investment to be supported under the measure not taking place within the EEA and that there is no risk of relocation within the EEA (recital (23)). The measure therefore complies with point 85(j) of the Temporary Crisis and Transition Framework.
- Italy commits that beneficiaries under the measure will have to (i) confirm that in the two years preceding the application for aid, they have not carried out a relocation to the establishment in which the aided investment is to take place; and (ii) commit not to carry out such relocation up to a period of two years after completion of the investment (recital (13)(c)). The measure therefore complies with point 85(k) of the Temporary Crisis and Transition Framework.
- Aid under the measure will not be granted to undertakings in difficulty (recital (13)(b)). The measure therefore complies with point 85(l) of the Temporary Crisis and Transition Framework.
- Italy confirmed that aid under the measure may be cumulated with State aid in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable under any of the relevant rules. Under no circumstances may the total aid amount exceed 100% of the eligible costs (recital (25)). The measure therefore complies with point 85(m) of the Temporary Crisis and Transition Framework.
- Italy committed to inform the Commission, within 60 days from the moment of granting individual aid under the measure, about the granting date, the aid amount, the eligible costs, the beneficiary's identity, the type and location of the investment supported on the basis of the information

provided by the beneficiary (recital (26)). The measure therefore complies with point 85(o) of the Temporary Crisis and Transition Framework.

- (38) 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 ⁽¹⁹⁾.
- (39) The Italian authorities have confirmed that the proposed 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. 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 (recital (24)).
- (40) Therefore, the Commission considers that the measure does not infringe any relevant provisions of Union law.
- (41) The Italian authorities confirmed 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 (5)).
- (42) The Italian authorities confirmed 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 (14)).
- (43) The Italian authorities confirmed that the monitoring and reporting requirements set out in section 3 of the Temporary Crisis and Transition Framework will be respected (recital (26)). The Italian authorities further confirm that aid granted under the measure can be cumulated with State aid in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable under any of the relevant rules. Under no circumstances will the total aid amount exceed 100% of the eligible costs (recital (25)).
- (44) The Commission has taken due consideration of the fact that the measure facilitates the development of certain economic activities and of the positive effects of that measure which accelerates the economic transition and overcomes the current crisis when balancing those effects against the potential negative

⁽¹⁹⁾ Judgment of 31 January 2023, *Commission v Braesch and Others*, C-284/21 P, EU:C:2023:58, paragraphs 96 et seq.

effects of the measure on the internal market. The Commission considers that the positive effects of the measure outweigh its potential negative effects on competition and trade and it is compatible with the internal market pursuant to Article 107(3), point (c), 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 (c), 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: <https://competition-cases.ec.europa.eu/search?caseInstrument=SA>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President