檔　　號：
保存年限：

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受文者：台灣醫療暨生技器材工業同業公會

發文日期：中華民國110年02月25日
發文字號：經投二字第11005193630號
速別：普通件
密等及解密條件或保密期限：
附件：如文

主旨：有關法國政府為強化法國及歐洲醫療產業對抗新冠疫情，公開徵求醫療產業投資計畫，符合條件並享有補助優惠事，惠請協助轉知貴會會員參考，至紉公誼。

說明：檢送駐法國代表處經濟組110年2月10日法經字第1100000054號函影本1份如附件。

正本：台灣生物產業發展協會、臺灣製藥工業同業公會、台灣醫療暨生技器材工業同業公會、台灣研發型生技新藥發展協會
副本：駐法國代表處經濟組

經濟部投資業務處

電子公文

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受文者：經濟部投資業務處
發文日期：中華民國110年2月10日
發文字號：法經字第1100000054號
速別：普通件
密等及解密條件或保密期限：
附件：如文(更正重發)

主旨：有關法國政府為對抗新冠疫情再度公開徵求醫療產業投資計畫，請卓辦。

說明：

一、相關文化：本組上(109)年8月14日法經字第1090000314號函。

二、法國財經部企業總局(DGE)於本(110)年2月6日公告，法國政府為鞏固醫療產業製造能量，上年度透過公開徵求製造業投資計畫提案(Appel à Manisfestation d' intérêt，AMI)已獲致成功結果，為強化法國及歐洲醫療產業對抗疫情，再次公開徵求企業提供創新、高附加價值之投資提案，並規劃3億歐元作為補助預算(最終標案金額將視徵選結果而定)，符合資格且有計畫在法投資之廠商可享補助優惠及政府行政協助。本次徵案截止時間為本年6月30日，投資提案包括(1)建立全新產線、(2)建立彈性調整現有產能的能力或(3)擴大工業化規模的創新製程技術，聚焦於以下四大醫療產業領域：

(一)新冠肺炎病患治療藥物：新興治療藥品或已上市之藥品、活性藥物成分(API)、中間體等，倘因短缺問題將在法國或歐洲造成供應鏈重大風險之產品；

(二)新冠肺炎疫苗：新一代疫苗、多合一疫苗，可提供普遍及

持久保護力產品，以及疫苗裝瓶必要成分、注射疫苗技術所需必要消耗品等；

(三)體外診斷醫療器材：新冠肺炎篩檢及診斷運用之工具、可於定點照護檢驗(point-of-care)、實驗室使用，或從事相關業務使用之塑膠耗材、反應試劑(reactive)、機器人、自動化設備等；

(四)治療新冠肺炎病患之醫療器材：包括設備及耗材等。

三、本次徵案條件及補助優惠，詳述如下：

(一)補助額度將依據上年6月5日歐盟執委會公告之第SA.57367(2020/N)號文件：「新冠肺炎：法國補助研發計畫、檢測及基礎建設升級投資、有助產能提升之投資」(COVID-19: Aid for COVID-19 relevant R&D projects, investment into relevant testing and upscaling infrastructures, and investment into COVID-19 relevant production capacities)相關補助辦法，補助形式包括直接補助、資金融通及稅負抵減等，額度依投資形式不盡相同，如基礎研究最高補助100%、產業研究最高補助80%、檢測及基礎建設升級投資最高補助75%、生產對抗新冠肺炎相關產品之投資最高補助80%等。

(二)投資案須於本年2月1日以後啟動(倘為2月1日前開始的投資案，僅擴大投資相關費用列入補助範圍)。獲選廠商須於6個月內啟動生產計畫，否則將實施相關罰則(如計畫延遲的情況下每月須退還25%補助金，或每月資金融通政府將改為每年支付等)。

(三)為鼓勵歐盟會員國攜手合作，倘廠商與歐盟其他廠商組成聯盟投件，補助額度將再提高。

(四)獲選廠商須優先供貨法國及歐盟。

(五)有興趣遞件之業者須至法國公共投資銀行(Bpifrance)網站上傳相關資料(https://extranet.bpifrance.fr/projets-innovants-collaboratifs；聯繫窗口Laura Sevestre電郵adminfilieres@bpifrance.fr、電話+33-1-5389-5542)。相關文件須以法文撰寫，包括產品介紹、生產技術、案件創新特點、投資/研發創新計畫摘要、目標產量、執行時程表、商業計劃、所需投資金額、公司財務結構、成功要件及風險分析、投資/研發創新案件對法國及歐洲對抗疫情之影響分析等。

四、本案惠請貴單位轉知有興趣佈局歐洲市場之相關廠商參考，倘我商在歐洲已有緊密合作夥伴，可組成策略聯盟投件增加獲勝機會；本組可依據國內有意願廠商之需求，伺機媒介法商合作之商機。

五、檢陳法國政府本次徵求投資計畫徵案簡介(僅法文版)及歐盟第SA.57367(2020/N)號文件(英文)如附件，併請卓參。

正本：經濟部投資業務處、經濟部工業局
副本：經濟部國際貿易局、經濟部國際合作處、財團法人中華民國對外貿易發展協會

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Investissements d'avenir

Appel à Manifestation d'Intérêt portant sur des capacités de production de produits de santé et d'équipements destinés à la lutte contre la pandémie de la COVID-19 et à ses conséquences

Cet Appel à Manifestation d'Intérêt est ouvert jusqu'au **30 juin 2021 à 12 heures** (midi heure de Paris). Il est doté d'une enveloppe initiale de **300 M€** qui pourra être revue en fonction des intérêts reçus des entreprises et de leurs partenaires publics.
Les réponses, sous forme de présentations, peuvent être déposées à compter de la date de publication de cet appel à manifestation d'intérêt, sans discontinuité jusqu'au 30 juin 2021.
Les projets déposés dans cet Appel à Manifestation d'Intérêt ont pour vocation de soutenir les investissements de nature à renforcer les capacités nationale et européenne de lutte contre la pandémie de la COVID-19. Des auditions des projets présélectionnés seront organisées au fil de l'eau, après réception des dossiers par Bpifrance.

Depuis le mois de janvier 2020 la population humaine fait face à une nouvelle maladie infectieuse à coronavirus, appelée COVID-19. Initialement apparu en Chine, ce nouvel agent pathogène s'est répandu à l'échelle mondiale en quelques semaines provoquant une crise sanitaire globale. A l'instar des autres pays touchés, la France a pris des mesures drastiques afin de faire face à la pandémie. Cette crise sanitaire d'une ampleur mondiale, tant dans sa durée que par son rayonnement géographique, a aussi exacerbé les pénuries de produits de santé, en premier lieu ceux utilisés dans les services de médecine intensive-réanimation pour la prise en charge des patients atteints de la COVID-19 (médicaments, dispositifs médicaux).

Elle a également touché la filière des dispositifs de diagnostic in vitro dans le cadre des campagnes massives de dépistage mises en œuvre à l'échelle mondiale. Ces pénuries sont à la fois la conséquence d'une augmentation brutale de la demande touchant simultanément de nombreux pays, mais également la résultante d'une chaine de valeur des produits de santé segmentée et mondialisée.

Les efforts sont désormais orientés vers les campagnes nationales de vaccination de la population contre la COVID-19 qui nécessitent, outre une mobilisation importante des chaines de fabrication des vaccins anti SARS-COV-2, des consommables suffisants pour réaliser les techniques d'injections. Enfin, l'apparition de nouveaux variants de la COVID-19 dans le monde appelle à renforcer les campagnes de dépistage au sein de la population et à adapter les solutions diagnostiques, prophylactiques et thérapeutiques à ces nouveaux enjeux.

Dans ce contexte d'urgence, le Gouvernement a décidé d'aider les entreprises et leurs partenaires publics dans la lutte contre la COVID-19, à travers le financement de projets de Recherche et Développement et d'accompagner l'Industrialisation des produits de santé. Ces projets concernent les réponses immédiates apportées **à la lutte contre la pandémie actuelle de COVID-19 et de ses variants.**

Le Gouvernement souhaite ainsi réduire la dépendance de l'Europe et de la France vis-à-vis des pays tiers, en accompagnant les investissements en faveur de la fabrication de produits de santé liés à la crise de la COVID-19. Ces aides financeront le développement de nouvelles capacités de production ou l'adaptation des lignes vers plus de flexibilité pour faire monter en production très rapidement des solutions utiles pour lutter contre la pandémie actuelle.

Pour les produits en développement, les projets d'investissement pourront porter sur la construction ou la mise à niveau d'infrastructures d'essai et de développement nécessaires pour mettre au point, tester et développer jusqu'au premier déploiement industriel précédant la production en série des produits liés à la pandémie de COVID-19.

Le lancement de cet AMI s'inscrit dans une perspective qui se veut transfrontalière, le Gouvernement français ayant l'intention d'échanger avec les autres Etats membres sur la thématique de la résilience sanitaire afin d'explorer la possibilité de lancer des appels à projets coordonnés entre plusieurs Etats Membres ou des appels à projets transfrontaliers avec des entreprises ou établissements de recherche implantés dans d'autres Etats membres afin de renforcer la résilience sanitaire de l'Union.

1. Cadrage

1.1. Nature des projets attendus

Cet Appel à Manifestation d'Intérêt (AMI) permettra à l'Etat d'identifier et de soutenir les projets d'investissements de nature à renforcer les capacités nationale et européenne de lutte contre la COVID-19. Il vise des projets d'envergure innovants, partenariaux ou non et permettant de la création de valeur en France et/ou en Europe. Les projets de grande ampleur soutenus par plusieurs États membres ou présentant une collaboration transfrontalière seront valorisés.

Les projets d'investissement peuvent se présenter sous la forme (i) de créations de nouvelles unités de production, (ii) d'investissements sur des unités de production existantes pour augmenter et moderniser leurs capacités de production ou les rendre plus productives et plus flexibles, (iii) de développement et de la mise en œuvre à l'échelle industrielle de procédés technologiques innovants. Les porteurs de projets devront s'engager à destiner leurs fabrications en priorité aux marchés français et européen.

Les coûts de recherche et développements des produits de santé développés ayant vocation à sortir de ces chaînes de production sont susceptibles, après expertise, d'être intégrés aux budgets présentés par le(s) partenaire(s) pour financement par le PIA.

Dans la chaine de valeur, cet AMI concerne :

- Les **médicaments impliqués dans la prise en charge des patients COVID-19**, qu'il s'agisse de produits de thérapies innovantes ou bien des produits matures, de leurs principes actifs ou des intermédiaires nécessaires à leur fabrication, s'il est démontré que ces dernières font peser un risque significatif sur la chaine d'approvisionnement.

- Les **vaccins anti SARS-COV-2,** y compris les vaccins de nouvelles générations, multi-cibles, permettant une protection universelle et durables dans le temps, ainsi que les **composants nécessaires aux opérations de conditionnement de ces vaccins** et les **consommables nécessaires aux techniques d'injection des doses.**

- Les **dispositifs médicaux de diagnostic in vitro** et outils impliqués dans les stratégies de dépistage et de diagnostic du **SARS-COV-2**, déployables en *point-of-care* ou en laboratoires, y compris les consommables plastiques, les réactifs, les robots et automates nécessaires à ces activités.

- Les **dispositifs médicaux impliqués dans la prise en charge des patients COVID-19**, équipements et consommables inclus.

Cet AMI s'adresse à toute personne morale se positionnant comme maître d'ouvrage, susceptible de supporter tout ou partie d'un investissement en France et, pour ce qui concerne la réglementation pharmaceutique, disposant déjà des autorisations nécessaires à la fabrication de principes actifs ou de médicaments à usage humain ou visant à les obtenir.

1.2. Cadre d'intervention – Base légale

L'intervention publique s'effectue dans le respect de la réglementation communautaire en matière d'aides d'État (articles 107 et 108 du Traité sur le fonctionnement de l'Union européenne). Il est tenu compte, pour apprécier la compatibilité des aides d'État avec le marché intérieur, des :

- **Régime cadre d'Aide temporaire pour le soutien aux entreprises COVID n°SA.56985 (2020/N) modifié par les régimes n°SA.57299, n°SA.58137 et n°SA.59722**
- Régime cadre d'Aide temporaire COVID-19 n°SA.57367 (2020/N) : aides en faveur de projets de recherche et développement liés à la COVID-19, d'investissements dans des infrastructures d'essai et de développement utiles et d'investissements dans des capacités de production liées à la COVID-19, modifié par les régimes n°SA.58137 et n°SA.59722

Les régimes d'aide applicables à la mesure sont publiés sur le site Europe en France.[1]

1.3. Conditions de participation

Les conditions de participation sont les suivantes :

- Le porteur ne doit pas être sous le coup d'une injonction de récupération d'aides qui auraient été jugées illégales et incompatibles dans le cadre d'une décision de la Commission européenne ;
- Le porteur ne doit pas avoir été en difficulté avant le 31 décembre 2019 (au sens de l'article 2 paragraphe 18 du règlement général d'exemption par catégorie - RGEC - modifié en 2017[2].En revanche, les entreprises qui ne sont pas en difficulté (au sens précité) et les entreprises qui n'étaient pas en difficulté au 31 décembre 2019 (au sens précité) mais rencontrent des difficultés ou sont rentrées en difficulté après cette date en raison de la crise du Covid-19 peuvent bénéficier de la présente mesure d'aide.
- Les projets aidés dans le cadre de la mesure devront respecter les conditions fixées par la section applicable du régime d'aide n°SA.57367 ou le cas échéant du régime n°SA.56985. Dont, notamment pour que l'aide soit réputée incitative :
- Le porteur doit avoir lancé le projet soumis après le 1er février 2020 ;

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[1] https://www.europe-en-france.gouv.fr/fr/aides-d-etat/regimes-d-aide/aide-detat-sa56985-2020n-france-covid-19-regime-cadre-temporaire-pour-le
https://www.europe-en-france.gouv.fr/fr/aides-d-etat/regimes-d-aide/sa57367-regime-daides-en-faveur-de-projets-de-recherche-et-developpement

[2] Règlement (UE) n° 651/2014 de la Commission européenne du 17 juin 2014 modifié en 2017 déclarant certaines catégories d'aides compatibles avec le marché intérieur en application des article 107 et 108 du traité sur le fonctionnement de l'Union européenne (TFUE).

- Si le projet a été lancé avant le 1er février 2020, il devra avoir pour objet d'accélérer l'opération d'investissement productif ou dans une infrastructure d'essai et de développement. Dans ce cas, seuls les coûts supplémentaires liés à l'accélération ou l'augmentation de la portée du projet pourront être considérés comme admissibles au bénéfice d'une aide ;
- La date d'octroi de l'aide, correspondant à la signature du contrat portant engagement de l'aide, ne devra pas dépasser le 31/12/2021 ;
- L'intensité de l'aide à un projet de recherche industrielle ou de développement expérimental (y compris innovations de procédé) soutenu dans le cadre de la section 2.7.1 du régime temporaire n°SA.57367 peut être augmentée de 15 points de pourcentage si le projet est soutenu par plusieurs États membres ou s'il est mené dans le cadre de collaborations transfrontalières avec des organismes de recherche ou d'autres entreprises.
- Concernant les infrastructures d'essai et de développement :
    - Elles doivent être accessibles à plusieurs utilisateurs sur une base transparente et non discriminatoire ;
    - Le prix facturé pour les services fournis par les infrastructures d'essai et de développement correspond au prix du marché. Toutefois, les entreprises et la puissance publique qui a financé au moins 10 % des coûts d'investissement peuvent bénéficier d'un accès préférentiel à des conditions plus favorables.
- Les projets d'investissement devront être engagés dans les 6 mois suivant la date d'octroi de l'aide, c'est-à-dire que les fonds alloués devront être au moins en partie dépensés dans ce délai et l'investissement sera affermi :
    - lorsque l'aide a été octroyée sous la forme de subvention : si le délai de six mois n'est pas respecté, le bénéficiaire devra rembourser 25 % du montant de l'aide par mois de retard, sauf si le retard est lié à des facteurs indépendants de la volonté du bénéficiaire ;
    - lorsque l'aide a été octroyée sous la forme d'avances récupérables, si le délai de six mois est respecté, les aides sous la forme d'avances récupérables sont transformées en subventions sauf dérogation prévue uniquement pour les projets d'investissement productifs (hors moyens d'essais) pour lesquels l'Etat aurait mis en place une clause de récupération dans la convention d'aide (cf. point 1.7 du régime d'aide SA.57367). Dans tous les cas, à défaut de respect du délai, l'avance récupérable est reversée par tranches annuelles, à parts égales, sur cinq ans maximum.

Les bénéficiaires des aides s'engagent à accorder des licences non exclusives à des conditions de marché équitables, à des tiers dans l'EEE.

Les coûts éligibles doivent correspondre à ceux qui sont listés dans le régime, les intensités d'aides maximales et les règles de cumul du régime d'aide seront respectées afin d'assurer la proportionnalité de la mesure.

Les règles de publication, de transparence, de rapport annuel et contrôles *ex post* seront mises en place dans le cadre de la présente mesure.

1.4. Intégration des projets transfrontaliers

Les projets d'entreprises françaises qui seront transmis dans le cadre de cet AMI seront susceptibles d'être intégrés au sein d'un ou plusieurs AAP coordonnés entre Etats membres de l'Union Européenne avec pour objectif l'émergence de projets transfrontaliers entre plusieurs entreprises ou organismes de recherche européens. De tels projets pourront bénéficier d'un taux d'aide renforcé (+15%) au cas par cas :

- pour les projets de recherche industrielle ou de développement expérimental liés à la COVID-19 si le projet est mené dans le cadre d'une collaboration transfrontalière avec des organismes de recherche ou d'autres entreprises[3] ;
- pour les projets d'aides aux moyens d'essai ou des projets d'aide à l'investissement en faveur de la fabrication de produits liés à la COVID-19 si le projet est soutenu par plus d'un Etat membre. Les AAP coordonnés et les projets qui en résulteront devront répondre globalement aux mêmes prérequis que ceux exprimés dans cet AMI, en fonction des critères fixés par le régime cadre n°SA.57367 et des critères qui pourraient être fixés par les Etats membres collaborateurs le cas échéant. Ces projets transfrontaliers devront être approuvés et les contrats signés avant le 31 décembre 2021.

Les entreprises françaises sont encouragées à contacter dès à présent d'éventuels partenaires européens dans cette perspective.

2. Contenu et analyse des dossiers

Le dossier, à soumettre en français, doit être synthétique et comporter les pièces suivantes :

- Une description générale du projet :
  - présentation des produits envisagés : le projet peut également porter sur les matières premières nécessaires à la fabrication des principes actifs, des trousses de biologie moléculaires, des composants de dispositifs médicaux... lorsqu'il est montré que ces matières premières présentent un risque significatif pour la chaîne d'approvisionnement des traitements liés au COVID-19 ;
  - présentation de la technologie de production envisagée : aucune technologie de production n'est exclue. Les technologies permettant de s'inscrire dans une trajectoire de transition écologique (ex : décarbonation) et énergétique, ou dans une démarche de compétitivité sont à privilégier ;
  - présentation du caractère innovant du projet : il peut être lié au produit lui-même, à son procédé de fabrication, à l'amélioration de l'empreinte environnementale liée à sa production, etc. ;
  - présentation du contexte du projet : nouvelles unités de production, investissements dans des unités de production existantes, développements et mises à l'échelle industrielle de procédés technologiques innovants, liens éventuels avec d'autres entités permettant de mutualiser les procédés ou de constituer une chaine de fabrication complète et sécurisée, débouchés éventuels pour d'autres filières ;
  - présentation des objectifs de production visés en termes de volume et positionnement de ces objectifs par rapport au marché, et notamment aux besoins nationaux et européens ;
  - présentation du calendrier associé au projet, notamment les dates prévisionnelles de décision de l'investissement, de validation des procédés, de dépôt des demandes d'autorisation et de mise en production.
- Un plan d'affaires détaillé précisant les perspectives de marchés ;
- Les montants d'investissements nécessaires ;
- Une analyse des conditions de réussite du projet et des risques associés ;
- Une analyse de l'impact du projet et de son caractère stratégique à l'échelle nationale et européenne dans la lutte contre la COVID-19 ou à ses conséquences.

3 Dans le cadre de la section 2.7.1. Sous-mesure « Aides en faveur de projets de R&D liés à la COVID-19 » du régime n°SA.57367.

L'analyse des projets se fera sous l'éclairage d'experts ou de collèges d'experts, avec une gouvernance interministérielle (MEF, MSS, MESRI), pilotée par le SGPI et opérée par Bpifrance.

3. Confidentialité

Les autorités françaises s'engagent à respecter strictement la confidentialité de l'ensemble des pièces qui lui seront transmises en réponse à l'AMI, et ce quelle que soit l'issue de la sélection du dossier.

4. Calendrier

Les propositions de réponse sont attendues et évaluées au fil de l'eau jusqu'au 30 juin 2021.

Les réponses doivent être adressées exclusivement sous forme électronique à l'adresse https://extranet.bpifrance.fr/projets-innovants-collaboratifs

Les modalités de dépôt du dossier sont disponibles à partir des sites Internet et auprès de Bpifrance : www.bpifrance.fr et www.competitivite.gouv.fr

Les renseignements sur cet AMI peuvent être obtenus auprès de Bpifrance soit par courriel (adminifilieres@bpifrance.fr), soit par téléphone :

- Laura SEVESTRE : 01 53 89 55 42

Les équipes de Bpifrance ainsi que les services déconcentrés concernés de l'Etat se tiennent à la disposition des porteurs des projets pour les accompagner dans la préparation de leurs dossiers.

ANNEXE 1

Tableau indicatif des produits liés à la lutte contre la pandémie de la COVID-19 concernés par l'AMI.

Cette liste n'est pas exhaustive, l'AMI concernant les produits impliqués dans lutte contre la pandémie de COVID-19, qu'il s'agisse de produits innovants ou matures.

- Vaccins : vaccins anti-SARS-COV-2 et ses variants (vaccins multicibles, multivalents, vecteurs viraux, intermédiaires ...)
- Médicaments pertinents pour le traitement des patients COVID (anticorps anti-SARS-COV-2, antiviraux, antibiotiques, dérivés des alcaloïdes, corticostéroïdes ...)
- Dispositifs de diagnostic in vitro et outils : réactifs et consommables plastiques de biologie moléculaires (cônes, plaques...), nouveaux outils de technologie spectrométrique, de séquençage haut débit, de biologie moléculaire « mobile » ...
- Dispositifs médicaux : dispositifs et équipements d'aide à la ventilation des patient COVID-19, d'oxygénothérapie ...
- Composants destinés au conditionnement des vaccins ou « fill & finish » (flacons, seringues, bouchons...) et dispositifs d'injections des doses (aiguilles, seringues...)

EUROPEAN COMMISSION

Brussels, 5.6.2020
C(2020) 3883 final

PUBLIC VERSION

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Subject: **State Aid SA.57367 (2020/N) – France**
COVID-19: Aid for COVID-19 relevant R&D projects, investment into relevant testing and upscaling infrastructures, and investment into COVID-19 relevant production capacities

Excellency,

1. PROCEDURE

(1) By electronic notification of 26 May 2020, amended on 29 May 2020 and on 2, 3 and 4 June 2020, the French authorities notified aid in the form of a temporary umbrella scheme ("*regime cadre temporaire*") supporting COVID-19 related research and development ("R&D"), testing and upscaling infrastructures, and COVID-19 related investment aid ("the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("the Temporary Framework").[1]

(2) France 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] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I , 4.4.2020, p. 1–9 and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3–15.

Son Excellence Monsieur Jean-Yves Le Drian
Ministre de l'Europe et des Affaires étrangères
37, Quai d'Orsay F - 75351 PARIS

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

2. DESCRIPTION OF THE MEASURE

(3) The measure is composed of three sub-measures and aims at supporting (1) COVID-19 relevant R&D activities, (2) testing and upscaling infrastructures that contribute to develop COVID-19 relevant products, as well as (3) investments into production capacities for products needed to respond to the COVID-19 outbreak. According to the French authorities, given the public health crisis surrounding that outbreak and the shortage of certain related products, it is crucial that the State can provide incentives to companies to direct their activities to research and production of certain products which are crucial to address that crisis. France considers that the measure contributes to address the public health crisis.

(4) The compatibility assessment of the measure is based on Article 107(3)(c) TFEU, as interpreted by Sections 3.6, 3.7 and 3.8 of the Temporary Framework.

2.1. The nature and form of aid

(5) All three sub-measures provide aid in the form of direct grants, repayable advances and tax advantages. The second and third sub-measures (that fall under sections 3.7 and 3.8 of the Temporary Framework) also provide aid in the form of a loss cover guarantee, which may be granted in addition to the direct grant, tax advantage or repayable advance, or as an independent aid.

2.2. Legal basis

(6) The legal bases for the measure are:

(a) For State entities, Article 20 of the Constitution of 4 October 1958;

(b) For regional and local public entities, the Section defining their economic interventions and in particular Articles L. 1511-1 à L. 1511-8 of the "*Code général des collectivités territoriales*";

(c) For other public entities, their statutes;

(d) For all aid granting authorities, the "*régime cadre temporaire pour les aides d'Etat en faveur de la recherche et du développement, ainsi que des aides à l'investissement en faveur des infrastructures d'essai et de développement ou de la fabrication de produits pour faire face à la crise du Covid-19*".[3]

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

[3] The draft "regime cadre" was submitted to the Commission on 3 June 2020 and will be published on https://www.europe-en-france.gouv.fr/fr/aides-d-etat

2.3. Administration of the measure

(7) Authorities at central and decentralised level, including at regional and local level, may grant aid under the measure, within the limits laid down by this Decision.

2.4. Budget and duration of the measure

(8) The French authorities estimated that aid not exceeding EUR 5 billion will be awarded under the measure. However, since the scheme will be implemented at various administrative levels, it is difficult to establish the precise total budget in advance.

(9) The measure may be co-financed by the European Structural and Investment Funds (ESIF). The French authorities confirm that the rules applicable under these Funds will be respected.

(10) Aid may be granted under the measure as from its approval until no later than 31 December 2020. For aid granted in the form of a tax advantage, the tax liability in relation to which that advantage is granted must have arisen by 31 December 2020[4].

2.5. Beneficiaries

(11) The beneficiaries of the measure are undertakings active in France, irrespective of their size, location and sector of activity. However, financial institutions and undertakings active in the agricultural, fishery and aquaculture sectors are not eligible for aid under the measure.

(12) Aid may not be granted under the measure to undertakings that were in difficulty on 31 December 2019 within the meaning of the General Block Exemption Regulation ("GBER")[5].

(13) The French authorities estimate the total number of beneficiaries of the measure at more than one thousand.

2.6. Sectoral and regional scope of the measure

(14) The measure is open to all sectors except the financial, the agricultural, fishery and aquaculture sectors. It applies to the whole territory of France.

2.7. Basic elements of the measure

2.7.1. Sub-measure "R&D Aid for COVID-19 relevant R&D projects"

(15) This sub-measure supports COVID-19 and other antiviral relevant research into vaccines, medicinal products and treatments, medical devices and hospital and medical equipment, disinfectants, and protective clothing and equipment, and into

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4 See footnote 17 of the Temporary Framework.

5 As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

relevant process innovations for an efficient production of the required products, including projects which were awarded a COVID-19 Seal of Excellence quality label under the Horizon 2020 SME instrument.

(16) The aid shall be granted in the form of direct grants, repayable advances or tax advantages by 31 December 2020. When the aid is granted in the form of a tax advantage, the tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2020.

(17) Where aid is granted in the form of a repayable advance, the conditions for its repayment are laid down in the aid granting act or a comparable contractual agreement that is concluded with the aid beneficiary before the aid is granted. This contract may include provisions that entitle the State to obtain reimbursement of the repayable advance in a monetary form or by acquiring, below market price, the obtained research results, or, in the case of successful commercialisation of products resulting from the supported research activity, a certain quantity of the products ("repayment *in natura*")[6].

(18) For R&D projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020 or for projects having received a COVID-19-specific Seal of Excellence, the aid is deemed to have an incentive effect if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid.

(19) The eligible costs are the following cost components used for the duration of the project:

(a) personnel costs;

(b) costs of instruments and equipment, including costs of digital and computing equipment, diagnosis tools, data collection and processing tools;

(c) costs of contractual research and other relevant research services, including costs for digital and computing services;

(d) costs for pre-clinical and clinical trials (trial phases I-IV);

(e) costs for obtaining, validating and defending patents and other intangible assets;

(f) costs incurred for obtaining the conformity assessments and/or authorisations necessary for the marketing of new and improved vaccines and medicinal products, medical devices, hospital and medical equipment, disinfectants, and improved personal protective equipment.

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[6] The French authorities confirm that in case of a reimbursement of the repayable advances *in natura, the* production will not be sold exclusively to the state, and that products will be made available for purchase to third parties in the EEA on non-discriminatory market conditions.

(20) Only costs directly related to and necessary for the R&D project during its duration, respectively for the subsequent IPR protection, clinical trial and regulatory procedures, are eligible for aid. Costs related to phase-IV trials are eligible as long as they allow further scientific or technological advance.

(21) No aid shall be granted to undertakings carrying out contract research on behalf of other undertakings.

(22) Assets (instruments, equipment etc.) that are not used for the full duration of the R&D project and/or are used for other purposes than the R&D projects covered by the sub-measure are taken into account only pro rata (depreciation over period of duration of the R&D project or pro rata of the capacity used for the R&D project).

(23) The categories of research eligible for aid are fundamental research, industrial research and experimental development[7]. The aid intensity for each beneficiary may cover 100% of eligible costs for fundamental research and shall not exceed 80% of eligible costs for industrial research and experimental development. If the aided projects consist of different work packages which fall partly under fundamental research and partly under industrial research or experimental development, the respective maximum aid intensities apply separately for eligible costs falling under fundamental research (i.e. 100%) and for eligible costs falling under industrial research/experimental development (i.e. 80%).

(24) The aid intensity for industrial research and experimental development may be increased by 15 percentage points if more than one Member State supports the research project, or if it is carried out in cross-border collaboration with research organisations or other undertakings.

(25) The aid beneficiary shall commit to grant non-exclusive licences under non-discriminatory market conditions to third parties in the EEA[8].

2.7.2. Sub-measure "Investment aid for testing and upscaling infrastructures"

(26) This sub-measure provides investment aid for the construction or upgrade of testing and upscaling infrastructures required to develop, test and upscale, up to first industrial deployment prior to mass production, COVID-19 relevant medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators and protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; as well as data collection/processing tools.

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7 As defined, respectively, in paragraph (84), (85) and (86) of Article 2 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

8 The French authorities confirm that this condition will also be met in situations where the State acquires the research results and relevant intellectual property rights in the context of the reimbursement of the repayable advance.

(27) Aid will be granted in the form of direct grants, tax advantages, repayable advances or loss cover guarantees by 31 December 2020. When the aid is granted in the form of a tax advantage, the tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2020.

(28) A loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance, or as an independent aid measure. The loss cover guarantee shall be issued within one month after the undertaking has applied for it. The amount of loss to be compensated shall be established five years after completion of the investment. The compensation amount shall be calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost, on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project, on the other.

(29) For projects started as of 1 February 2020, the aid is deemed to have an incentive effect. For projects started before 1 February 2020, the aid is deemed to have an incentive effect if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid.

(30) The investment project shall be completed within six months after the date of granting the aid. An investment project is considered completed when accepted by the French authorities as completed. Where the six-month deadline is not met, 25% of the amount of aid awarded in form of direct grants or tax advantages shall be reimbursed per month of delay, unless the delay is due to factors outside the control of the aid beneficiary.

(31) Where the six months deadline is respected, aid in the form of repayable advances shall be transformed into grants. Where the six-month deadline is not met and aid is awarded in the form of repayable advance, the repayable advance shall be reimbursed in equal annual instalments within a maximum period of five years after the date of granting the aid.

(32) Eligible costs are the investment costs necessary for setting up the testing and upscaling infrastructures required to develop the products listed in recital (26) above (e.g. the costs of purchasing or transforming machines and equipment).

(33) Assets that are not used for the full lifetime of the infrastructure are taken into account only pro rata (i.e. depreciation over the lifetime, if applicable, or pro rata of the capacity used for the infrastructure).

(34) The aid intensity shall not exceed 75% of the eligible costs. The maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the date of aid granting or date of application of the tax advantage, or if the support comes from more than one Member State. The maximum allowable aid intensity of aid awarded in the form of a repayable advance may be increased by an additional 15 percentage points if the investment is completed within two months, or if the support comes from more than one Member State.

(35) The price charged for the services provided by the testing and upscaling infrastructure shall correspond to the market price.

(36) The testing and upscaling infrastructures shall be open to several users and be granted on a transparent and non-discriminatory basis. Undertakings and public entities, which have financed at least 10 % of the investment costs may be granted preferential access under more favourable conditions.

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

(37) This sub-measure targets investment projects to set up new production capacities to produce COVID-19 relevant products or to adjust existing production facilities to enable them to produce COVID-19 relevant products and technologies, including:

- medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials;
- medical devices, hospital and medical equipment (including ventilators, protective clothing and equipment as well as diagnostic tools) and necessary raw materials;
- disinfectants, protection products, equipment and machinery required to sanitise products and environments and their intermediary products and raw chemical materials necessary for their production;
- data collection/processing tools.

(38) For the purpose of this sub-measure, projects that have started on or after 1 February 2020 will be considered as eligible. Projects that started before 1 February 2020 may be deemed eligible if the aid is necessary to accelerate or widen the scope of the project.

(39) Eligible costs incurred after 1 February 2020 in relation to the approved projects must be those necessary to develop, manufacture and provide COVID-19 relevant products and costs incurred for trial runs of the new production facilities.

(40) In case of projects that commenced before 1 February 2020, only the additional costs in relation to the acceleration efforts or the widened scope of the production shall be eligible for aid.

(41) The aid can be provided in the form of a grant, a tax advantage, or a repayable advance and a loss cover guarantee. Where the aid is granted in form of a repayable advance, the conditions for the repayment, if any, shall be laid down in the aid granting act, or in a comparable contractual aid granting agreement.

(42) Aid under this sub-measure will be granted before 31 December 2020; where the aid is granted in the form of a tax advantage, the tax liability in relation to which that advantage is granted must have arisen by 31 December 2020.

(43) The investment project is to be completed within six months from the date when the aid is granted. A project is considered completed when accepted by the French authorities as completed.

(44) The intensity of the aid should not exceed 80% of the eligible costs to support undertakings to carry out investment projects to manufacture COVID-19 relevant products. If the project is completed within two months of the aid being awarded

or approved or if the support comes from more than one Member State, an additional bonus of 15 percentage points may be awarded to the beneficiary.

(45) A loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance, or as an independent aid measure. The loss cover guarantee is issued within one month after the undertaking applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project.

(46) Where aid is granted in the form of direct grants or tax advantage and the six-month deadline is not met, 25% of the amount of aid awarded shall be reduced for every month of delay, unless the delay is due to factors beyond the control of the aid beneficiary.

(47) Where aid is granted in the form of repayable advances, the following modalities shall be applied:

- Where the investment is completed within the six-month deadline, the repayable advance shall be transformed into a grant. Where provided in the individual aid granting agreement (*convention d'aide*), a repayment of the advance can however be required in the form of rebates on prices charged by the aid beneficiary for sales to the State of products concerned by the investment project[9].

- Where the six-month deadline is not respected, the repayable advance shall be reimbursed by the beneficiary in equal annual instalments, within five years after the date of granting the aid in monetary form or alternatively, where provided for in the individual aid granting agreement (*convention d'aide*) in the form of rebates on prices as above.

2.8. Cumulation

(48) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the European Structural and Investment Funds (ESIF).

(49) The French authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[10] or the General Block

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9 The French authorities confirm that the supply of products resulting from the supported investment to the State will not be exclusive, and that such products will be made available for purchase to third parties in the EEA on non-discriminatory market conditions.

10 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) 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 of 26.4.2012, p. 8).

Exemption Regulation[11] provided the provisions and cumulation rules of those Regulations are respected.

(50) The French authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

(51) The French authorities confirm that aid for COVID-19 related R&D projects granted under the first sub-measure may be combined with support from other sources for the same eligible costs, provided the total amount of combined aid does not exceed the aid ceilings approved in this Decision.

(52) The French authorities confirm that investment aid granted under the second sub-measure for testing and upscaling infrastructure and aid granted under the third sub-measure for the production of COVID-19 relevant products shall not be combined with other investment aid for the same eligible costs.

2.9. Monitoring and reporting

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

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(55) 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.

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[11] 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.

[12] Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014. For direct grants, repayable advances and loss-cover guarantees, the nominal value of the underlying instrument shall be inserted per beneficiary. For tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.

(56) The measure is imputable to the State, since it is administered by public authorities. It is financed through State resources, since it is financed by public funds.

(57) The measure confers an advantage on its beneficiaries in the form of direct grants, repayable advances, tax advantages and/or loss-cover guarantees. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(58) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings involved in COVID-19 relevant research, testing, development or production activities, with the exclusion of financial institutions and undertakings active in the agricultural, fishery and aquaculture sectors.

(59) 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.

(60) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The French authorities do not contest that conclusion.

3.3. Compatibility

(61) 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.

(62) Pursuant to Article 107(3)(c) TFEU, the Commission may declare compatible with the internal market "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*".

(63) By amending the Temporary Framework on 3 April 2020, the Commission acknowledged the need to take specific temporary measures enabling Member States to address the health crisis caused by the COVID-19 outbreak. The measure aims at enhancing and accelerating COVID-19 relevant research, testing and upscaling, and at facilitating the production of COVID-19 relevant products to address the current emergency health crisis. The measure has been designed to meet the requirements of the specific categories of aid ("Aid for COVID-19 relevant research and development", "Investment aid for testing and upscaling of infrastructure", and "Investment aid for the production of COVID-19 relevant products") described in Sections 3.6, 3.7 and 3.8 of the Temporary Framework.

(64) The Commission accordingly considers that the measure contributes to the achievement of a common objective of crucial importance, is appropriate and necessary to address the health crisis. The Commission notes in particular:

3.3.1. Sub-measure "Aid for R&D projects"

(65) This sub-measure meets all the conditions provided by Section 3.6 of the Temporary Framework for COVID-19 relevant R&D, in particular:

- Aid granted under the sub-measure is limited to the eligible research areas listed in point 35 of the Temporary Framework (see recital (15)).

- Aid is granted under the sub-measure in the form of direct grants, tax advantages or repayable advances (see recital (16)). The measure therefore complies with point 35(a) of the Temporary Framework.

- For R&D projects started as of 1 February 2020 and for projects having received a COVID-19-specific Seal of Excellence, aid granted under the measure is deemed to have an incentive effect; for R&D projects started before 1 February 2020, aid granted under the measure is deemed to have an incentive effect provided the aid is necessary to accelerate or widen the scope of the project (see recital (18)). The sub-measure therefore complies with point 35(b) of the Temporary Framework.

- Eligible costs are defined under the sub-measure in accordance with point 35(c) of the Temporary Framework (see recital (19)). All costs necessary for the duration of the R&D aided project are eligible for aid under the measure. For projects started before 1 February 2020, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid under the sub-measure, in line with point 35(b) of the Temporary Framework (see recital (18)).

- The aid intensity for each beneficiary may cover 100% of eligible costs for fundamental research[13] and shall not exceed 80% of eligible costs for industrial research[14] and experimental development[15]. Where aided projects consist of different work packages which fall partly under fundamental research and partly under industrial research or experimental development, the respective maximum aid intensities apply separately for eligible costs falling under fundamental research and for eligible costs falling under industrial research/experimental development (see recital (23)). The sub-measure therefore complies with point 35(d) of the Temporary Framework. The cooperation/collaboration bonus for industrial research and experimental development shall not exceed 15 percentage points and is thus limited in accordance with the conditions laid down by point 35(e) of the Temporary Framework (see recital (24)).

- Aid granted under the sub-measure may be combined with support from other sources for the same eligible costs, provided the total combined amount of aid does not exceed the aid ceilings laid down in points 35(d)

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13 As defined in paragraph (84) of Article 2 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

14 As defined in paragraph (85) of Article 2 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

15 As defined in paragraph (86) of Article 2 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

and (e) of the Temporary Framework (see recital (52)). The sub-measure therefore complies with point 35(f) of the Temporary Framework.

- Beneficiaries of aid under the sub-measure shall commit to grant non-exclusive licences under market conditions to third parties in other EEA states (see recital (25)). The sub-measure therefore complies with point 35(g) of the Temporary Framework.
- Aid may not be granted under the sub-measure to undertakings that were already in difficulty on 31 December 2019 (see recital (12)). The sub-measure therefore complies with point 35(h) of the Temporary Framework.

3.3.2. Sub-measure "Investment aid for testing and upscaling of infrastructure"

(66) This sub-measure meets all the conditions provided by Section 3.7 of the Temporary Framework for COVID-19 relevant research and development, in particular:

- Aid granted under the sub-measure is limited to the construction or upgrade of testing and upscaling infrastructures required to develop, test and upscale, up to the first industrial deployment prior to mass production, COVID-19 relevant products listed in point 37(a) of the Temporary Framework (see recital (26)).
- Aid is granted under the sub-measure in the form of direct grants, tax advantages or repayable advances; in addition, or alternatively, aid may be granted in the form of loss cover guarantees (see recital (27)). The sub-measure therefore complies with point 37(b) and (h) of the Temporary Framework. If the investment is finalised within six months from the moment the aid is granted, aid in the form of repayable advances may be transformed into grants in accordance with point 37(d) of the Temporary Framework.
- For investment projects started as of 1 February 2020, aid granted under the sub-measure is deemed to have an incentive effect; for projects started before 1 February 2020, aid granted under the sub-measure is deemed to have an incentive effect provided the aid is necessary to accelerate or widen the scope of the project (see recital (29)). The sub-measure therefore complies with point 37(c) of the Temporary Framework.
- The costs eligible for aid under the sub-measure are the investment costs necessary for setting up the testing and upscaling infrastructures required to develop the products listed in point 37(a) of the framework (see recital (32)). The sub-measure therefore complies with point 37(e) of the Temporary Framework. For projects started before 1 February 2020, only the additional costs in relation to the acceleration efforts or the widened scope of the project are eligible for aid under the sub-measure in line with point 37(c) of the Temporary Framework (see recital (29)).
- The aid intensity shall not exceed 75% of the eligible costs. The sub-measure therefore complies with point 37(e) of the Temporary

Framework. A bonus of up to 15 percentage points may be granted under the conditions laid down in point 37(f) of the Temporary Framework, *i.e.* if the investment is finalised within two months or if the aid comes from more than one Member States (see recital (34)).

- The cumulation of the aid granted under the sub-measure with other investment aid for the same costs shall not be permitted (see recital (52)). The sub-measure therefore complies with point 37(g) of the Temporary Framework.

- Investment projects must be completed within six months after the investment aid is granted. If that deadline is not respected, the beneficiary of the sub-measure shall reimburse 25% of the amount of the aid awarded in form of direct grants or tax advantages per month of delay, unless the delay is due to factors outside the control of the beneficiary (see recital (30)). If that deadline is not respected, the beneficiary shall reimburse the repayable advances in equal annual instalments within five years after the date the aid was granted (see recital (30)). The sub-measure therefore complies with point 37(d) of the Temporary Framework.

- Loss cover guarantees shall be issued within one month after they were applied for. The amount of loss to be compensated shall be established five years after the completion of the investment. The compensation amount shall be calculated as the difference between the sum of the investment costs, a reasonable profit of 10% p.a. on the investment costs over five years, and operating costs, on the one hand, and the sum of the direct grant received, the revenues recorded over the five year period, and the terminal value of the project, on the other (see recital (28)). The sub-measure therefore complies with point 37(h) of the Temporary Framework.

- The prices charged for the services provided by the testing and upscaling infrastructure shall correspond to the market price (see recital (35)). The sub-measure therefore complies with point 37(i) of the Temporary Framework;

- The testing and upscaling infrastructures shall be open to several users and access shall be granted on a transparent and non-discriminatory basis (see recital (36)). Undertakings that have financed at least 10 % of the investment costs may be granted preferential access under more favourable conditions (see recital (36)). The sub-measure therefore complies with point 37(j) of the Temporary Framework.

- Aid may not be granted under the sub-measure to undertakings that were already in difficulty on 31 December 2019 (see recital (12)). The sub-measure therefore complies with point 37(k) of the Temporary Framework.

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

(67) This sub-measure meets all the conditions provided by Section 3.8 of the Temporary Framework for investment aid for the production of COVID-19 relevant products , in particular:

- Aid granted under the sub-measure is limited to investments for the production of the COVID-19 relevant products listed in point 39(a) of the Temporary Framework (see recital (37)).

- Aid is granted under the sub-measure in the form of direct grants, tax advantages, repayable advances and, in addition, or alternatively, loss cover guarantees (see recital (41)). The sub-measure thus complies with point 39(b) and (h) of the Temporary Framework. If the investment is finalised within six months from the moment the aid is granted, aid in the form of repayable advances may be transformed into grants in accordance with point 39(d) of the Temporary Framework (see recital (47)).

- For investment projects started as of 1 February 2020, the aid granted under the sub-measure is deemed to have an incentive effect; For projects started before 1 February 2020, the aid granted under the sub-measure is deemed to have an incentive effect, provided the aid is necessary to accelerate or widen the scope of the project (see recital (38)). The sub-measure therefore complies with point 39(d) of the Temporary Framework.

- Costs eligible for aid under the sub-measure consist of all investment costs necessary for the production of the products listed in point 39(a) of the Temporary Framework as well as the costs of trial runs of the new production facilities (see recital (39)). The sub-measure therefore complies with point 39(e) of the Temporary Framework. For projects started before 1 February 2020, only the additional costs in relation to the acceleration efforts or the widened scope of the project are eligible for aid under the sub-measure in line with point 39(c) of the Temporary Framework (see recital (40)).

- The aid intensity shall not exceed 80% of the eligible costs. The sub-measure therefore complies with point 39(e) of the Temporary Framework (see recital (44)). A bonus of up to 15 percentage points may be granted under the conditions laid down in point 39(f) of the Temporary Framework (i.e. if the investment is finalised within two months or if the aid comes from more than one Member States) (see recital (44)).

- The cumulation of the aid granted under the sub-measure with other investment aid for the same costs shall not be permitted (see recital (52)). The sub-measure therefore complies with point 39(g) of the Temporary Framework.

- Eligible investment projects must be completed within six months after the grant of the investment aid. If this deadline is not respected, the beneficiary shall reimburse 25% of the amount of the aid awarded per month of delay, unless the delay is due to factors outside the control of the

beneficiary (recital (46)); in case of repayable advances, if this deadline is not respected, the beneficiary shall reimburse, as required by point 39(d) of the Temporary Framework, the repayable advances in equal annual instalments within five years after the date the aid was granted (see recital (47)).

- Loss cover guarantees shall be issued within one month after they were applied for. The amount of loss to be compensated shall be established five years after the completion of the investment. The compensation amount shall be calculated as the difference between the sum of the investment costs, a reasonable profit of 10% p.a. on the investment costs over five years, and the operating costs, on the one hand, and the sum of the direct grant received, the revenues recorded over the five year period, and the terminal value of the project, on the other (see recital (45)). The sub-measure therefore complies with point 39(h) of the Temporary Framework.

- Aid may not be granted under the sub-measure to undertakings that were already in difficulty on 31 December 2019 (see recital (12)). The sub-measure therefore complies with point 39(i) of the Temporary Framework.

3.3.4. Generally applicable requirements

(68) As required by point 49 of the Temporary Framework, the French authorities confirm that individual aid awards shall not be granted under the measure after 31 December 2020 (see recital (10) of this decision).

(69) The Commission notes that beneficiaries in the agriculture, fisheries and aquaculture sectors are excluded from benefitting from the measure. In accordance with points 35(h), 37(k) and 39(i) of the Temporary Framework, undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[16] on 31 December 2019 are not eligible for aid under this measure (see recital (12)). In addition, in accordance with point 20bis of the Temporary Framework, credit and financial institutions are excluded from the benefit of the measure.

(70) The French authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (see recital (53)). The French authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (see recitals (50)and (51)).

(71) The French authorities also confirm that the rules applicable to the European Structural and Investment funds will be respected.

(72) In the light of the elements above, the Commission considers that the measure complies with the compatibility conditions laid down by the Temporary

[16] As defined in Article 2(18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

Framework. The Commission has taken due consideration of the common objective pursued by the measure and its positive effects on tackling the health crisis provoked by the COVID-19 outbreak when balancing those effects against the potential negative effects of the measure on the internal market. The Commission concludes that those positive effects of the measure outweigh its potential negative effects on competition and trade.

4. CONCLUSION

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

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