Ministerie van Economische Zaken
en Klimaat

Response of the Dutch authorities to HT.6323 – Consultation on a proposal to amend the State aid Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia, The Hague 9 November 2023

This response reflects the views of the Dutch 'Interdepartementaal Staatssteun Overleg (hereafter: ISO)'. The ISO is a central State aid coordination body composed of all Dutch ministries and representation of the regional and local authorities. The ISO is chaired by the Ministry of Economic Affairs and Climate Policy. The Minister of Economic Affairs and Climate Policy is responsible for competition policy in the Netherlands.

In a letter and consultation, dated Monday 6 November 2023, the Commission is seeking Member States' views to its proposal to extent the phase-out of Sections 2.1 and 2.4 of the Temporary Crisis and Transition Framework (TCTF) by three months until 31 March 2024 to cover that period of heightened uncertainty, and to permit a proportionate increase in the maximum aid amount under Section 2.1.

The TCTF was adopted by the Commission on 23 March 2022 as a response to support the economies of the Member States after Russia initiated a war of aggression against Ukraine. The crisis part of the TCTF is based on Article 107, paragraph 3 sub b of the Treaty on the Functioning of the European Union (to remedy a serious disturbance in the economy of a Member State).

The crisis part of the TCTF has proven its worth at supporting undertakings amid the immediate effects of the crisis. It has enabled Member States to grant support for those companies that were seriously affected by the sudden economic consequences of the war by allowing targeting the aid to compensate, inter alia, higher energy prices.

However, the overall economic outlook and situation in the energy markets has improved significantly in the whole EU. **The Dutch authorities are not conviced that there is a serious disturbance of the economy any longer** and therefore the need and the legal basis in the TFEU for the existing exceptional crisis response in the field of State aid control.

Expiry of the crisis part of the TCTF is also in line with the temporary and targeted nature of crisis State aid frameworks. The crisis response should be necessary and proportionate, and therefore it should also be truly temporary and phased out as soon as possible when the economic situation improves. Therefore, the Dutch authorities are firmly of the opinion that the crisis part of the TCTF should not be extended beyond 31 December 2023. The Dutch authorities welcome the phasing out of Sections 2.2, 2.3 and 2.7.

As jusitification to extent the phase out of Sections 2.1 and 2.4 of the TCTF until 31 March 2024 the Commission states that the current crisis continues to pose risks and remains a source of uncertainty, in particular during the upcoming winter heating period, which might result in unexpected events requiring Member States to provide urgent support.

The Dutch authorities acknowledge that the overall situation in the markets remains somewhat uncertain. However, that current crisis continues to pose risks and remains a source of uncertainty does not on its own mean there is an economic rationale that there is a serious disturbance of the economy. This

becomes a different matter when uncertainty leads to actually higher prices. Also, the developments in the Middle East, as mentioned by the Commission, do not yet show any effects that justify an extension of Sections 2.1 and 2.4. Moreover, given that it has been indicated by the Commission that the crisis part of the TCTF can be reintroduced in the short therm, the Dutch authorities are not convinced by this jusitification. For that reason **the Commission is urged not to extend the Sections 2.1 and 2.4 of the TCTF** and to monitor the situation closely and respond swiftly, should the economic situation change with regard to energy prices or other serious unforeseen economic circumstances. In the event of any new crisis situation threatening to create a new serious disturbance, the Commission is called upon to act to reintroduce appropriate, temporary and targeted State aid measures, so Member States will be able to swiftly apply or reintroduce aid schemes to support their economies.