

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND NORTHERN IRELAND PROTOCOL

C(2022) 1890 Final

Communication from the Commission: Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia

Submitted by BEIS 26/04/2022

SUBJECT MATTER

The European Commission has adopted a Temporary Crisis Framework to enable the EU Member States to provide increased State aid and support their economies in the face of threats arising from Russia's invasion of Ukraine. Russia's military aggression has disrupted supply chains for cereals and vegetable oils as well as impacting the energy market. This has resulted in higher energy prices impacting sectors still recovering from the Covid-19 pandemic as well as affecting financial markets.

The Temporary Crisis Framework is based on Article 107(3)(b) of the Treaty on the Functioning of the European Union which may allow for aid to be granted to remedy a serious disturbance in the economy of an EU Member State.

SCRUTINY HISTORY

The EU similarly introduced a temporary framework for state aid in 2020 to address issues arising from the Covid 19 pandemic. BEIS produced three EMs dated 23 April 2020, 27 May 2020 & 3 August 2020 on four iterations of the framework (Commission Communications C(2)1863, 2215, 3156 and 4509).

MINISTERIAL RESPONSIBILITY

The Secretary of State for Business, Energy and Industrial Strategy has primary responsibility for subsidy control policy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

The regulation of the provision of subsidies is a reserved matter and an excepted matter in Northern Ireland.

However, the Northern Ireland Executive has a particular interest in the application of the EU State aid rules, given the application of the EU State aid rules to aid that is within scope of Article 10 of the Northern Ireland Protocol - ie aid for goods or wholesale electricity.

The Department for the Economy (Northern Ireland) Subsidy Control Advice Unit has been consulted in the preparation of this Explanatory Memorandum.

LEGAL AND PROCEDURAL ISSUES

i. Legal Base

The legal base for this temporary crisis framework is Article 107(3)(b) of the Treaty on the Functioning of the European Union.

ii. Voting Procedure

Not applicable. Under EU law, the European Commission has competence to adopt a communication which indicates how the Commission will treat potential State aid measures.

iii. Timetable for adoption and implementation

The Communication was adopted on 23 March 2022. There is no further implementation required.

POLICY IMPLICATIONS

The Framework allows additional flexibility in the EU State aid system and will apply to aid in scope of Article 10 of the Northern Ireland Protocol only - aid relating to goods and wholesale electricity. It provides the opportunity to give greater help to manufacturers who may be affected by the Ukraine crisis. The framework itself does not impose any new burdens or give rise to any negative effects on Northern Ireland.

Any other subsidies granted by UK Authorities to deal with the Ukraine crisis, that are not in scope of the Northern Ireland Protocol, will not be covered by the Framework. There is no obligation for UK Public Authorities to follow the terms of this Framework when granting subsidies that are not in scope of Article 10 of the Protocol. Instead, the TCA and in future the UK's domestic subsidy control regime will apply, which allow for a more flexible approach, and Public Authorities should be able to respond to requests for support without the need for any additional flexibilities.

The Government believes, as per the July 2021 Command Paper on the NI Protocol, that provisions in Article 10 are redundant in their current form, and UK Public Authorities should be able to grant aid to manufacturers affected by the Ukraine crisis across the whole of the UK on the same terms.

Content of the Framework

The Framework will allow for grants of EUR 35,000 for companies affected by the crisis in agriculture and fisheries sectors, and up to EUR 400,000 per company in other sectors. EU Member States will be able to provide subsidised loans and guarantees within certain limits. The applicable period for the granting of subsidies under this Framework extends to 31 December 2022 only.

The Framework will also allow for aid to compensate for high energy prices. There will be limits to this energy cost support, for example aid per beneficiary cannot exceed 30% of the eligible costs, up to a maximum of EUR 2 million at any point. The Framework allows for energy intensive businesses who continue to operate at a loss to receive further support, subject to a cap of 50% of the eligible costs and a maximum of 80% of the operating losses. These energy intensive businesses may receive up to EUR 25 million and the Framework lists certain sectors where companies may receive up to EUR 50 million.

CONSULTATION

Not applicable.

FINANCIAL IMPLICATIONS

The proposal carries no financial implications of itself, but rather sets the rules for how the European Commission will find aid compatible with the EU single market.

MINISTERIAL NAME AND SIGNATURE



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