

**THIS FORM SHOULD BE ATTACHED AS AN ANNEX TO THE  
STANDARD NOTIFICATION FORM IN SANI2**

**NOTIFICATION TEMPLATE FOR THE TEMPORARY CRISIS AND  
TRANSITION FRAMEWORK FOR STATE AID MEASURES TO SUPPORT THE  
ECONOMY FOLLOWING THE AGGRESSION AGAINST UKRAINE BY  
RUSSIA**

On 9 March 2023, the Commission adopted the Communication on the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (TCTF).<sup>1</sup> This TCTF replaces the Temporary Crisis Framework adopted on 28 October 2022,<sup>2</sup> which had already replaced the Temporary Crisis Framework adopted on 23 March 2022<sup>3</sup>, as amended on 20 July 2022<sup>4</sup> (together: ‘previous Temporary Crisis Frameworks’). The Temporary Crisis Framework adopted on 28 October 2022 has been withdrawn with effect from 9 March 2023.

The Commission applies the provisions of the Communication adopted on 9 March 2023 to all measures notified as of 9 March 2023, as well as to measures notified prior to that date.

The Commission invites Member States to provide in their notification:

- the general information under **Section I** (including the language waiver in Annex I);
- the additional information under the different points in **Section II**:
  - Point 1: for aid under section 2.1: *Limited amounts of aid*
  - Point 2: for aid under section 2.2: *Liquidity support in the form of guarantees*
  - Point 3: for aid under section 2.3: *Liquidity support in the form of subsidised loans*
  - Point 4: for aid under section 2.4: *Aid for additional costs due to exceptionally severe increases in natural gas and electricity prices*
  - Point 5 for aid under section 2.5: *Aid for accelerating the rollout of renewable energy, storage, and renewable heat relevant for REPowerEU*
  - Point 6 for aid under section 2.6: *Aid for accelerating the decarbonisation of industrial production processes through electrification and/or the use of renewable and electricity-based hydrogen fulfilling certain conditions and for accelerating energy efficiency measures*
  - Point 7 for aid under section 2.7: *Aid for additional reduction of electricity consumption*
  - Point 8 for aid schemes under section 2.8: *Aid for accelerated investments in sectors strategic for the transition towards a net-zero economy*

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<sup>1</sup> OJ C 101, 17.3.2023, p. 3.

<sup>2</sup> OJ C 426, 9.11.2022, p.1.

<sup>3</sup> OJ C 131I, 24.3.2022, p. 1.

<sup>4</sup> OJ C 280, 21.7.2022, p. 1.

## SECTION I: GENERAL INFORMATION

### 1. Description of the serious disturbance in the economy of your country:

As described in the TCTF, the current crisis triggered by the war of aggression by Russia against Ukraine has created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods. Those effects taken together have caused a serious disturbance of the economy in all Member States. The Commission considers that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU for a limited period, if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the current crisis. The situation is also the relevant background for the Commission to consider aid for accelerating certain investments under Sections 2.5, 2.6 or 2.8 TCTF appropriate.

In order to describe the country-specific situation, please provide data and information on the economic impact in your country, notably in the sectors covered by the scheme and describe how the undertakings that are eligible for aid under the envisaged measure are affected by the current crisis, or why there is a need to accelerate the relevant investments.

### 2. General description of the aid measure

- National legal basis - please provide a copy;
- Confirmation of compliance with 108(3) TFEU<sup>5</sup>: Please confirm that the national legal basis of the notified scheme will be adopted only after notification of the Commission decision; if the legal basis is adopted before notification of the Commission decision, please indicate the provision in that legal basis that includes the ‘standstill obligation’, *i.e.* that aid will be granted only after notification of the Commission approval decision.
- Granting authority and competent authority to manage the scheme, if different;
- Objective of the notified aid measure;
- Budget;
- Geographical scope;
- Beneficiaries: estimated number / sectors concerned / size of companies concerned, if relevant / exclusions from scope;
- Duration:
  - Date of entry into force of the scheme:
  - Time period in which beneficiaries can submit application for aid:
  - Latest date until which individual aid will be granted under the notified measure:

### 3. GENERAL CONFIRMATIONS AND COMMITMENTS:

- Confirm that credit and financial institutions are excluded from the scope of the

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<sup>5</sup> No aid granted before notification of the Commission’s approval.

notified aid measure and cannot benefit from the aid, except for aid under Section 2.4 pursuant to point 48 TCTF, or when those institutions channel aid in form of loans and guarantees in compliance with points 67(i),70(g), 72(b), or 85(e) of the TCTF;

- Confirm that the aid 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;
- Confirm that aid under the notified aid 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;
- Confirm that the notified aid measures may not in any way be used to undermine the intended effects of sanctions imposed by the Union or its international partners and must be in full compliance with the anti-circumvention rules of the applicable regulations (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). In particular, it must be avoided that natural persons or entities subject to the sanctions benefit directly or indirectly from any such measures;
- Confirm 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;
- Confirm if aid under the notified measure may be cumulated with de minimis aid<sup>6</sup> and/or with aid under the General Block Exemption Regulation<sup>7</sup> or with aid under the Agricultural Block Exemption Regulation<sup>8</sup> or with aid under the Fisheries Block Exemption Regulation<sup>9</sup>; in such a case, confirm that the

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<sup>6</sup> Commission Regulation(EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p.45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

<sup>7</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

<sup>8</sup> Commission Regulation (EU) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 1).

<sup>9</sup> Commission Regulation (EU) 2022/2473 of 14 December 2022 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the

provisions of the relevant Regulations will be respected;

- Confirm if aid granted under the notified measure may be cumulated with aid under a measure approved by the Commission under the COVID-TF<sup>10</sup> or the previous Temporary Crisis Frameworks for the same eligible costs; in such a case, confirm that the cumulation rules in the COVID-TF or the previous Temporary Crisis Frameworks and the TCTF are respected; Please list the aid measures approved by the Commission under the COVID-TF or the previous Temporary Crisis Frameworks for which cumulation is allowed;
- Confirm if aid granted under the different sections of the TCTF may be cumulated with each other; in such a case, confirm that the relevant provisions in the specific sections of the TCTF are respected;
- Confirm that for aid granted under sections 2.1 to 2.3 of the previous Temporary Crisis Frameworks and aid granted under the same respective sections of the TCTF cannot exceed the aid ceilings provided in the respective sections of the TCTF at any point in time. As regards section 2.4, confirm that aid granted under the previous Temporary Crisis Frameworks and aid granted under the TCTF cannot exceed the aid ceilings provided by the TCTF for the same eligible period. Confirm that aid granted under sections 2.5 and 2.6 of the previous Temporary Crisis Frameworks cannot be cumulated with aid granted under the same respective sections of the TCTF if it covers the same eligible costs.
- For agricultural and fisheries measures: Confirm if aid under the measure may be cumulated with other forms of Union financing; in such a case, confirm that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected;
- Confirm that SMEs are defined in line with Annex I to the relevant Block Exemption Regulation;
- Commit to comply with all the monitoring and reporting provisions in section 3 of the TCTF:
  - The obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure and above EUR 10 000 in the primary agriculture and in the fisheries sectors on the comprehensive State aid website or Commission's IT tool within 12 months (or for aid under Section 2.8 TCTF: 6 months) from the moment of granting<sup>11</sup>;

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Functioning of the European Union (OJ L 327, 21.12.2022, p. 82).

<sup>10</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340 I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), C(2021) 8442 (OJ C 473, 24.11.2021, p. 1), and C(2022) 7902 (OJ C 423, 7.11.2022).

<sup>11</sup> 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) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 1). For repayable advances, guarantees, loans, subordinated debt and other forms of aid, the nominal value of the underlying instrument must be inserted per beneficiary. For tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.

- To keep detailed records regarding the granting of aid for 10 years upon granting of the aid and commit to provide them to the Commission upon request. Such records must contain all information necessary to establish that the necessary conditions set out in the TCTF have been observed;
- To submit annual reports in line with the requirements of Commission Regulation (EC) No 794/2004<sup>12</sup>;
- Confirm that the notification does not contain confidential information. Otherwise, indicate the information from the notification that contains confidential information;
- If the scheme is co-financed by the European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF), European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII), please confirm that the rules applicable under those Funds will be respected;
- Please provide the language waiver in Annex I.

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<sup>12</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1.

## SECTION II: ADDITIONAL INFORMATION

### POINT 1: FOR AID TO BE GRANTED UNDER SECTION 2.1 OF THE TCTF: LIMITED AMOUNTS OF AID

1. Confirm that the overall maximum aid amount(s) per undertaking<sup>13</sup> (gross, *i.e.* before any deduction of tax or other charge) are respected;
2. Describe the form of aid (*e.g.* direct grant, tax advantages, repayable advances, guarantees, loans, equity);
3. Confirm that the aid is granted by 31 December 2023 at the latest; For aid in form of tax advantages, confirm that the tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2023;
4. Confirm that the aid is granted to undertakings affected by the crisis, describing how it is ensured that only such undertakings can be granted aid;
5. Confirm that for aid granted in other forms than direct grants, tax and payment advantages, the total nominal value of such forms remains below the overall maximum cap per undertaking;
6. Confirm that if the beneficiary receives aid on several occasions or in several forms under the notified aid scheme under section 2.1 or under another existing scheme approved by the Commission under section 2.1, the overall maximum cap per undertaking as set out in points 61(a) and 62(a) of the TCTF is respected.<sup>14</sup>
7. Confirm that where the beneficiaries are undertakings active in the processing and marketing of agricultural products, the aid is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned;
8. If the aid is channelled through an energy supplier, describe in detail the mechanism that ensures that competition between suppliers is preserved and that the aid is passed on in full to the final beneficiary;
9. If the aid is channelled through credit institutions or other financial institutions,

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<sup>13</sup> See points 61(a) and 62(a) of the TCTF.

<sup>14</sup> Aid granted under the measure or aid under other measures approved by the Commission under section of the TCTF, which has been reimbursed before new aid is granted will not be taken into account in determining whether the relevant ceiling is exceeded.

describe how it is ensured that the advantage is passed on to the final beneficiaries by the financial intermediaries (*e.g.* in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates than without the envisaged public guarantees);

10. If the aid is granted in the form of guarantees, confirm that the mobilisation of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted;
11. If the measure provides for the conversion of aid from one form into another, describe the respective forms of aid, the sections of the TCTF under which the measures to be converted have been authorised, the conditions and the timing of such conversion, and confirm that the conditions of section 2.1 are complied with;
12. For agricultural, fisheries and aquaculture sector, confirm that:
  - aid to undertakings active in the primary agricultural production<sup>15</sup> is not fixed on the basis of the price or quantity of products put on the market;
  - aid to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in points (a) to (k) of Article 1(1) of Commission Regulation (EU) No 717/2014<sup>16</sup>;
  - where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 61(a) and 62(a) of the TCTF, it will be ensured, by appropriate means such as separation of accounts, that for each of those activities the relevant ceiling is respected and that the overall maximum amount of EUR 2 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 62(a) of the TCTF, the overall maximum amount of EUR 300 000 is not exceeded per undertaking.

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<sup>15</sup> As defined in Article 2(44) of Commission Regulation (EU) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 1).

<sup>16</sup> Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 90, 28.6.2014, p. 45).

## SECTION II: ADDITIONAL INFORMATION

### POINT 2: FOR AID TO BE GRANTED UNDER SECTION 2.2 OF THE TCTF: LIQUIDITY SUPPORT IN THE FORM OF GUARANTEES

1. Confirm that guarantees are granted in line with all conditions under section 2.2 of the TCTF;
2. Confirm that guarantees may be provided on new individual loans made to undertakings;
3. Please describe the following:
  - Types of eligible instruments (e.g. investment and/or working capital loans),
  - Maturities of the eligible instruments,
  - Maximum amount of the loan principal as defined in point 67(e) TCTF;
  - When using point 67(e)(iii) of the TCTF, please list in an exhaustive way the appropriate justification to use the liquidity needs of the beneficiary to calculate the loan amount; relevant justification could relate to beneficiaries active in sectors that are particularly affected by direct or indirect effects of the aggression, including sanctions imposed by the Union, its international partners, as well as counter measures taken, for example by Russia; those effects may include disruptions of supply chains or outstanding payments from Russia or Ukraine, increased risks of cyber-attacks or rising prices for specific inputs or raw materials affected by the current crisis;
  - Confirm that, where large enterprises need to provide financial collaterals for trading activities on energy markets, the amount of the guarantee is increased to cover the liquidity needs derived from these activities for the coming 12 months;
  - Describe if the liquidity needs included in a liquidity plan cover working capital and/or investment costs. If additional support is granted to cover new liquidity needs not included in the original liquidity plan, confirm that the same liquidity needs are only covered once and such additional support complies with all the conditions under the TCTF;
  - Confirm that, when the overall amount of the loan is calculated on the basis of liquidity needs of the beneficiary (point 67(e)(iii) of the TCTF), the same beneficiary cannot cover with guarantees under the notified aid measure the liquidity needs already covered by aid measures approved by the Commission under the previous Temporary Crisis Frameworks or the COVID-19 Temporary Framework;



- Maximum amount of the guarantee (as % of loan principal),
  - For granting public guarantees as unfunded financial collateral to central counterparties or clearing members to cover new liquidity needs derived from the need to provide financial collaterals for cleared trading activities on energy markets for energy undertakings, please confirm that the conditions under point 67(g) TCTF are complied with,
  - Duration of the guarantee,
  - Attribution of losses under the guarantee,
  - Describe the level of guarantee premiums and the calculation method (where guarantee duration, guarantee premiums and guarantee coverage are modulated for each underlying individual loan principal, provide the necessary justifications and modulation in line with point 67(c) of the TCTF)<sup>17</sup>,
  - Indicate if the guarantee covers the full maturity of the underlying instrument.
4. Confirm that guarantees are granted by 31 December 2023 at the latest;
  5. Confirm that the mobilisation of the guarantees is contractually linked to specific conditions which have to be agreed between the parties when the guarantee is initially granted;
  6. If the aid is channelled through credit institutions or other financial institutions, describe how it is ensured that the advantage is passed on to the final beneficiaries by the financial intermediaries (e.g. in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates than without such public guarantees);
  7. Confirm that for the same underlying loan principal aid granted under section 2.2 of the TCTF will not be cumulated with aid granted under section 2.3 of the TCTF or the previous Temporary Crisis Frameworks and vice versa or with aid granted under sections 3.2 or 3.3 of the COVID-19 Temporary Framework;
  8. Confirm that aid granted under section 2.2 and section 2.3 of TCTF for different loans will not be cumulated, if the overall amount of loans per beneficiary exceeds the ceilings set out in points 67(e) and 70(e) of the TCTF;
  9. Confirm that in as far as the same beneficiary may benefit in parallel from

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<sup>17</sup> To facilitate the implementation of the requirement under point 67(c) of the TCTF, Member States may use the summary of case practice published by the Commission and available at: [https://competition-policy.ec.europa.eu/system/files/2022-11/summary\\_of\\_case\\_practice\\_on\\_modulation\\_under\\_point\\_61c%20and%2064c\\_TCF.pdf](https://competition-policy.ec.europa.eu/system/files/2022-11/summary_of_case_practice_on_modulation_under_point_61c%20and%2064c_TCF.pdf)

multiple measures approved by the Commission under sections 2.2 of the TCTF or the previous Temporary Crisis Frameworks, it is ensured that for such measures the maximum ceilings on loans as specified in points 67(e) of the TCTF are respected per beneficiary;

10. Describe any other additional conditions imposed in the measure.

## SECTION II: ADDITIONAL INFORMATION

### POINT 3: FOR AID TO BE GRANTED UNDER SECTION 2.3 OF THE TCTF: LIQUIDITY SUPPORT IN THE FORM OF SUBSIDISED LOANS

1. Describe and confirm that all conditions under section 2.3 of the TCTF and in particular the conditions under point 70 of the TCTF are respected:
  - Types of eligible instruments (*e.g.* investment and/or working capital loans),
  - Maturities of eligible instruments,
  - Confirm that, if a grace period is applied for interest payments, the minimum interest rates set out in point 70(b) of the TCTF must be complied with and interests must accrue from the first day of the grace period and must be capitalised at least annually. Confirm that the duration of the loan contracts will remain limited to maximum of six years from the moment of granting the loan unless modulated in line with point 70(c) of the TCTF and the overall amount of the loans per beneficiary referred to in point 70(e) of the TCTF will not be exceeded.
  - Maximum amount of loan principal as defined in point 70(e) of the TCTF;
  - When using point 70(e)(iii) TCTF, list in an exhaustive way the appropriate justification to use the liquidity needs of the beneficiary to calculate the loan amount; relevant justification could relate to beneficiaries active in sectors that are particularly affected by direct or indirect effects of the aggression, including sanctions imposed by the Union, its international partners, as well as counter measures taken, for example by Russia; those effects may include disruptions of supply chains or outstanding payments from Russia or Ukraine, increased price volatility on energy markets and related collateral needs, increased risks of cyber-attacks or rising prices for specific inputs or raw-materials affected by the current crisis;
  - Confirm that, where large enterprises need to provide financial collaterals for trading activities on energy markets, the amount of the loan is increased to cover the liquidity needs derived from these activities for the coming 12 months;
  - Describe if the liquidity needs included in a liquidity plan cover working capital and/or investment costs. If additional support is granted to cover new liquidity needs not included in the original liquidity plan, confirm that the same liquidity needs are only covered once and such additional support complies with all the conditions under the TCTF;

- Confirm that, when the overall amount of the loan is calculated on the basis of liquidity needs of the beneficiary (point 70(e)(iii) of the TCTF), it is ensured that the same beneficiary cannot cover with loans under the notified aid measure the liquidity needs already covered by aid measures approved by the Commission under the previous Temporary Crisis Frameworks or the COVID-19 Temporary Framework;
  - Level of interest rates (base rate and credit risk margin) and calculation method (where the loan maturity and the level of credit risk margins are modulated, provide the necessary justifications and modulation in line with point 70(c) of the TCTF);<sup>18</sup>
  - If the aid is channelled through credit institutions or other financial institutions, describe how it is ensured that the advantage is passed on to the final beneficiaries by the financial intermediaries without conditioning the granting of subsidised loans under this section to refinancing existing loans;
2. Confirm that the loan contracts are signed by 31 December 2023 at the latest;
  3. Confirm that for the same underlying loan principal, aid granted under section 2.3 of the TCTF will not be cumulated with aid granted under section 2.2 of the TCTF, and vice versa or the respective sections of the previous Temporary Crisis Frameworks;
  4. Confirm that aid granted under section 2.2 and section 2.3 of the TCTF for different loans will not be cumulated, if the overall amount of loans per beneficiary exceeds the ceilings set out in points 67(e) and 70(e) of the TCTF;
  5. Confirm that in as far as the same beneficiary may benefit in parallel from multiple measures approved by the Commission under sections 2.3 of the TCTF, it is ensured that for such measures the maximum thresholds on loans as specified in point 70(e) of the TCTF are respected per beneficiary.

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<sup>18</sup> To facilitate the implementation of the requirement under point 70(c) of the TCTF, Member States may use the example in the summary of case practice published by the Commission and available at: [https://competition-policy.ec.europa.eu/system/files/2022-11/summary\\_of\\_case\\_practice\\_on\\_modulation\\_under\\_point\\_61c%20and%2064c\\_TCF.pdf](https://competition-policy.ec.europa.eu/system/files/2022-11/summary_of_case_practice_on_modulation_under_point_61c%20and%2064c_TCF.pdf)

## SECTION II: ADDITIONAL INFORMATION

### **POINT 4: FOR AID TO BE GRANTED UNDER SECTION 2.4 OF THE TCTF: AID FOR ADDITIONAL COSTS DUE TO EXCEPTIONALLY SEVERE INCREASES IN NATURAL GAS AND ELECTRICITY PRICES**

1. Describe and confirm that the conditions under point 72 of the TCTF are respected and describe how you verify that those requirements are met:
  - Confirm that aid is granted no later than 31 December 2023;
  - Confirm that, when the aid is granted only after an ex post verification of the supporting documentation of the beneficiary and the Member State decides not to include the possibility to grant advance payments in line with point 74 of the TCTF, aid may be granted until 31 March 2024 provided the eligible period as defined in line with point 72(e) of the TCTF is respected;
  - Types of eligible instruments (*i.e.* direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans, and/or equity); For aid in form of tax advantages, confirm that the tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2023;
  - Provide the maturities of eligible instruments, where applicable;
  - Describe for the purposes of section 2.4 exclusively, if the measure defines the ‘beneficiary’ as an undertaking or as a legal entity that forms part of an undertaking;
  - Confirm that the aid is granted on the basis of a scheme with an estimated budget;
  - Confirm whether the scheme is limited to certain activities that support specific economic sectors of particular importance to the economy or to the security and resilience of the internal market. If there is such a limitation, describe those activities and how such a limitation is designed broadly so as not to lead to an artificial limitation of potential beneficiaries;
  - Describe how eligible costs are calculated and verified, provide start and end dates of the eligible period, describe the methodology to calculate the unit costs incurred over the reference period and over the eligible period,

explain whether the consumption of electricity, natural gas or heating and cooling directly produced from natural gas and electricity used to calculate eligible costs is set by reference to historical or actual consumption and the reasons for that choice, and describe the evidence that the eligible undertaking is requested to provide; when the consumption used to calculate eligible costs is set by reference to historical consumption (i.e. consumption in the reference period), explain what commitments are required from beneficiaries to ensure that they do not substantially reduce production activities below what is necessary or merely shift consumption elsewhere; confirm that the requirements under point 72(e) of the TCTF are respected;

- Confirm that, as from 1 September 2022, the quantity of natural gas and electricity used to calculate the eligible costs must not exceed 70% of the beneficiary's consumption for the same period in 2021<sup>19</sup>;
- Confirm that, regardless how the beneficiary is defined, the overall aid per undertaking does not exceed 50% of the eligible costs and EUR 4 million at any given point in time; Confirm that all figures used are gross, *i.e.* before any deduction of tax or other charge;
- Confirm that for aid granted in other forms than direct grants, tax and payment advantages, the total nominal value of such forms remains below the applicable aid intensity and the overall maximum cap of EUR 4 million per undertaking;
- If the aid is channelled through credit institutions or other financial institutions, describe how it is ensured that the advantage is passed on to the final beneficiaries by the financial intermediaries (*e.g.* in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates than without the envisaged public guarantees);
- If the measure provides for the conversion of aid from one form into another, describe the respective forms of aid, the conditions and the timing of such conversion, and confirm that the compatibility criteria of section 2.4 are complied with;
- Confirm that if aid under point 72 of the TCTF is cumulated with aid under section 2.1 of the TCTF, the total amount of EUR 4 million per

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<sup>19</sup> As confirmed by the Commission in case SA.105405 (2022/N), beneficiaries that were prohibited from offering goods and services due to the consequences of the COVID-19 epidemic or that were legally limited in their activities in 2021 may use as an exemption 2019 as a reference of the volume of consumption for the calculation of the 70 % ceiling if sufficiently justified. Where this were to apply, please provide evidence that beneficiaries were legally limited in their activities due to the COVID-19 pandemic.

undertaking is not exceeded;

- Confirm that aid granted under point 72 of the TCTF that is calculated on the basis of historical consumption (q(ref)) may not be cumulated with aid granted under section 2.7 of the TCTF for the same consumption volume.
2. Describe and confirm that the conditions under point 73 of the TCTF are respected and describe how you verify that those requirements are met. In particular:
- Describe and confirm that the conditions in points 72(a) to (e) and (g) of the TCTF are respected by providing the necessary information required under the point above;
  - Confirm that the beneficiary's EBITDA in the eligible period, including the overall aid, may not exceed 70% of its EBITDA in the reference period. In cases where the EBITDA was negative in the reference period, confirm that the aid may not lead to an increase of EBITDA in the eligible period above 0.
  - If applicable, confirm that the overall aid per beneficiary does not exceed 40% of the eligible costs and the overall aid per undertaking does not exceed EUR 100 million at any given point in time;
  - Describe and confirm if the scheme provides for aid for beneficiaries qualifying as 'energy-intensive businesses under point 73(b) of the TCTF:
    - If so, confirm that the overall aid per beneficiary does not exceed 65% of the eligible costs and that the overall aid per undertaking does not exceed EUR 50 million at any given point in time;
    - Confirm that the aid is granted only to beneficiaries qualifying as 'energy-intensive businesses' that have either a reduction in EBITDA (excluding aid) of at least 40% in the eligible period compared to the reference period, or a negative EBITDA (excluding aid) in the eligible period;
    - Confirm that 'energy-intensive business' is defined as a legal entity where the purchases of energy products (including energy products other than natural gas and electricity) amount to at least 3.0% of the production value or turnover, based on data from the financial accounting reports for the calendar year 2021. If data for the first semester of 2022 is used, confirm that the beneficiary may qualify as 'energy-intensive business' if the purchases of energy products (including energy products other than natural gas and electricity) amount to at least 6.0% of the production value or turnover.

- Describe and confirm if the scheme provides for higher aid thresholds as defined in point 73(c) of the TCTF for beneficiaries that qualify as ‘energy-intensive businesses’ active in a sector or subsector listed in Annex I to the TCTF, and if this includes some or all of those (sub-)sectors:
    - If so, confirm that the overall aid per beneficiary does not exceed 80 % of the eligible costs and that the overall aid per undertaking does not exceed EUR 150 million at any given point in time;
    - Confirm that only those beneficiaries will be eligible that have either a reduction in EBITDA (excluding aid) of at least 40% in the eligible period compared to the reference period, or a negative EBITDA (excluding aid) in the eligible period.
    - Confirm that ‘energy-intensive business’ is defined as a legal entity where the purchases of energy products (including energy products other than natural gas and electricity) amount to at least 3.0% of the production value or turnover, based on data from the financial accounting reports for the calendar year 2021. If data for the first semester of 2022 is used, confirm that the beneficiary may qualify as ‘energy-intensive business’ if the purchases of energy products (including energy products other than natural gas and electricity) amount to at least 6.0% of the production value or turnover.
    - Confirm that a beneficiary will be considered as active in a sector or subsector listed in Annex I according to the beneficiary’s classification in the sectoral national accounts or if one or several of the activities it carries out and which are included in Annex I generated more than 50% of its turnover or production value in 2021.
  - Confirm that if aid under point 73 TCTF is cumulated with aid under section 2.1 of the TCTF, the ceilings specified under points 73(a), (b) or (c) of the TCTF whichever applies, are not exceeded.
  - Confirm that aid granted under point 73 of the TCTF that is calculated on the basis of historical consumption (q(ref)) may not be cumulated with aid granted under section 2.7 of the TCTF for the same consumption volume.
3. Confirm whether advance payments are granted under the scheme before eligible costs have been incurred. If so, describe how eligible costs are estimated, and confirm that (i) the aid ceilings in points 73 and/or 74 TCTF are respected and (ii) an ex-post verification will be put in place to verify the relevant eligibility requirements and/or the aid ceilings on the basis of actual data and the granting authority will clawback any aid payments that do not meet the eligibility criteria or that exceed the



relevant aid ceilings no later than six months after the eligible period has ended.

4. If the aid is channelled through an energy supplier, describe in detail the mechanism that ensures that competition between suppliers is preserved and that the aid is passed on in full to the final beneficiary.
5. Confirm that, as of 1 January 2023, for aid amounts exceeding EUR 50 million, the schemes requires the beneficiary to submit to the granting authority, within one year from the moment of granting the aid, a plan that specifies how it will reduce the carbon footprint of its energy consumption or how it will implement any of the requirements related to environmental protection or security of supply described in point 38 of the TCTF.
6. Describe any other additional conditions imposed in the measure (for instance any requirements which be may introduced related to environmental protection or security of supply for granting aid under this section pursuant to point 38 of the TCTF).

## SECTION II: ADDITIONAL INFORMATION

### POINT 5: FOR AID TO BE GRANTED UNDER SECTION 2.5 OF THE TCTF: AID FOR ACCELERATING THE ROLLOUT OF RENEWABLE ENERGY AND ENERGY STORAGE RELEVANT FOR REPOWEREU

1. Where applicable, confirm that the following general conditions under section 2.5 of the TCTF (points 77 and 78 of the TCTF) are respected and describe how you verify that those requirements are met:
  - Indicate the technologies that will be covered by the aid measure; where support is limited to one or several technologies, explain how artificial limitation and discrimination are excluded (including in the award of licences, permits or concessions when they are required);
  - Where the aid is granted for the production of renewable hydrogen and renewable hydrogen-derived fuels<sup>20</sup>, explain how it will be ensured that the hydrogen is produced from renewable energy sources in accordance with the methodologies set out for renewable liquid and gaseous transport fuels of non-biological origin in Directive (EU) 2018/2001 and its implementing or delegated acts;
  - Where the aid is granted for the production of biofuels, bioliquids, biogas (including biomethane) and biomass fuels, explain how it will be ensured that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001<sup>21</sup> and its implementing or delegated acts;
  - Where the aid is granted for the investment or operation of storage for renewable hydrogen, biofuels, bioliquids, biogas (including biomethane) and biomass fuels, explain how you it will be ensured that at least 75% of the content of the storage systems supported will be obtained from a directly connected renewable hydrogen, biofuels, bioliquids, biogas (including biomethane) and biomass fuels on an annual basis;
  - Confirm that the aid is granted with respect to newly installed or repowered capacities<sup>22</sup> on the basis of a scheme;

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<sup>20</sup> Liquid and gaseous fuels that derive from renewable hydrogen, the energy content of which is derived from renewable sources other than biomass.

<sup>21</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) (OJ L 328, 21.12.2018, p. 82), as amended.

<sup>22</sup> Repowering means renewing power plants that produce renewable energy, including the full or partial replacement of installations or operation systems and equipment for the purposes of replacing capacity

- Provide the estimated capacity volume and budget of the scheme under which support is granted;
  
- Where the aid is determined in a competitive bidding process, provide the following information:
  - Description of the design of the competitive bidding process, to demonstrate it is open, clear, transparent and non-discriminatory;
  - Confirmation that the competitive bidding process is based on objective criteria that are defined ex-ante;
  - Description of the selection criteria to be used for ranking bids and confirmation that at least 70% in the total selection criteria used are defined in terms of aid per unit of environmental protection (e.g. EUR per tonne of CO<sub>2</sub> reduction) or aid per unit of energy output or capacity installed;
  - Explanation of how the risk of strategic bidding and undersubscription is excluded;
  - Proof that the volumes of capacity or production tendered are set to ensure that the bidding process is effectively competitive (e.g. through reference to past auctions, to technology targets in the National Energy and Climate Plan, or by introducing a safeguard mechanism in case of risk of undersubscribed tenders);
  - Confirmation that, in case of repeated undersubscription of competitive bidding processes, remedies will be introduced for any future schemes notified to the Commission for the same technology;
  
- Where the aid is determined administratively, i.e. without a competitive bidding process, identify the specific category of projects under which the aid beneficiaries fall, namely:
  - projects for which a competitive bidding procedure is not required pursuant to points 77(g) and 78(g) of the TCTF; or
  - solar photovoltaic, onshore and offshore wind projects, and hydropower projects that qualify as small projects as defined in points 77(h) and 78(h) of the TCTF; in this case, confirm that the aid granted per undertaking per project does not exceed EUR 30 million.
  
- Confirm that the aid will be granted by the 31 December 2025 at the latest and explain how it will be ensured that the supported installations will be

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or increasing the efficiency or capacity of the installation.

completed and will be in operation within 36 months after the date of granting, with the exception of offshore wind technologies;

- Provide a comprehensive description of the envisaged system of penalties, including (i) the level of penalties; (ii) the triggering event; and (iii) possible reasons for exempting the beneficiaries from the payment of penalties; please also explain why you expect the envisaged system of penalties to be effective in ensuring that the supported projects are completed and in operation within 36 months;
  - Indicate if projects started before 9 March 2023, or 20 July 2022 in case of projects eligible under the previous Temporary Crisis Framework, are eligible for aid; if this is the case, confirm that such projects are eligible only if the aid is needed to significantly accelerate their implementation, or to significantly widen the scope of the project; in addition, confirm that only the additional costs in relation to the acceleration efforts or the widened scope are eligible for aid; explain how compliance with these requirements will be ensured;
  - Please provide a description of the counterfactual scenario that would take place in the absence of the aid and explain why it is a plausible counterfactual; if the counterfactual scenario consists in the beneficiaries continuing their activities without changes, please confirm that continuing their activities without changes would not entail a breach of Union law;
  - Indicate whether aid under this measure can be combined with other aid, or centrally managed funds, in relation to the same eligible costs; if so, confirm that it will not exceed the applicable aid intensity (in case of investment aid) or 100% of the expected net costs (in case of operating aid);
  - Confirm compliance with the “do not significant harm” principle.
2. In case of investment support under section 2.5.1 of the TCTF, where applicable, confirm that the following conditions under point 77 of the TCTF are respected and describe how you verify that those requirements are met:
- Confirm that the aid is granted in the form of direct grants, repayable advances, loans, guarantees or tax advantages including tax credits;
  - Where the aid is determined in a competitive bidding process, confirm that the aid intensity does not exceed 100% of the total investment costs;
  - Where the aid is determined to administratively, i.e. without a competitive

bidding process, confirm that the aid intensity does not exceed 45% of the total investment costs, with the exception of small undertakings and medium-sized undertakings (the possibility of increase by 20% and 10% respectively).

- Confirm that the aid amount is independent from the energy output and that, in case of repowered capacities, only the additional costs in relation to the repowered capacity are eligible for aid;
  - Indicate whether aid under section 2.5.1 of the TCTF will be cumulated with aid under section 2.5.2; unless this possibility is specifically foreseen in the notified measure, commit not to allow cumulation of aid under this section with aid under section 2.5.2 of the TCTF.
3. In case of operating support under section 2.5.2 of the TCTF, where applicable, confirm that the following conditions under point 78 of the TCTF are respected and describe how you verify that those requirements are met:
- Confirm that the aid is granted in the form of two-way contracts for difference<sup>23</sup>, in relation to the energy output of the installation and with a contract duration of no longer than 20 years after the aided installation starts operations<sup>24</sup>;
  - Where the aid is determined to administratively, i.e. without a competitive bidding process, confirm that the strike price of the contracts for difference is set by the competent energy regulatory authority<sup>25</sup> to cover expected net costs, including the estimated WACC, and taking into account all main revenues and any aid already received;
  - Please explain how the scheme prevents any undue distortion to the efficient functioning of markets and preserve efficient operating incentives and price signals. In particular, please explain how beneficiaries will not be incentivised to offer their output below their marginal costs and not receive aid for production in any periods in which the market value of that production is negative<sup>26</sup>.

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<sup>23</sup> A two-way contract for difference means a contract signed between a power generating facility operator and a counterpart, usually a public entity, that provides both minimum remuneration protection and a limit to excess remuneration. The contract is designed to preserve incentives for the generating facility to operate and participate efficiently in the energy markets.

<sup>24</sup> The support payments under the contract must be limited to 20 years but Member States are free to require installations to continue making paybacks under the contracts for as long as the supported facility continues operating.

<sup>25</sup> 'Regulatory authority' means a regulatory authority designated by each Member State pursuant to Article 57(1) of Directive (EU) 2019/944 (OJ L 158, 14.6.2019, p. 125).

<sup>26</sup> Small-scale renewable electricity installations may benefit from direct price support that covers the full

4. In case of operating support under section 2.5.2 of the TCTF, where applicable, confirm that the conditions under point 79 of the TCTF are respected and describe how you verify that those requirements are met:

- Confirm that the aid complies with the requirements laid down in points 78(a), 78 (b), 78(c), 78(e), 78(i) and 78(j);
- Confirm that the aid is granted for existing installation connected to the grid before 1 October 2022 that benefitted from aid approved by the Commission under Article 107(3)(c) TFEU or exempted from notification;
- Confirm that the aid is necessary to increase the maximum capacity of existing installations so that their capacity is increased by up to 1 MW per installation or equivalent and without further investments;
- Confirm that the aid is granted by 31 December 2023 and the eligible period for support shall end by 31 December 2024;
- Confirm that the aid granted under point 79 of the TCTF must not be combined with other aid supporting the same additional capacity.

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costs of operation and does not require them to sell their electricity on the market, in line with the exemption in Article 4(3) of Directive (EU) 2018/2001. Installations will be considered as small-scale if their capacity is below the applicable threshold in Article 5 of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), (OJ L 158, 14.6.2019, p. 54).

## SECTION II: ADDITIONAL INFORMATION

**POINT 6: FOR AID TO BE GRANTED UNDER SECTION 2.6 OF THE TCTF: AID FOR ACCELERATING THE DECARBONISATION OF INDUSTRIAL PRODUCTION PROCESSES THROUGH ELECTRIFICATION AND/OR THE USE OF RENEWABLE AND ELECTRICITY-BASED HYDROGEN FULFILLING CERTAIN CONDITIONS AND FOR ACCELERATING ENERGY EFFICIENCY MEASURES**

Describe and confirm that the conditions under point 81 of the TCTF are respected and describe how you verify that those requirements are met:

1. Confirm that the aid is granted on the basis of a scheme with an estimated budget;
2. Indicate whether the maximum individual aid amount that may be granted per undertaking is limited to either or both of the following: 10% of the total budget available for the scheme or EUR 200 million; or provide appropriate justification in case the scheme allows for the granting of individual aid amounts exceeding 10% of the total budget available for the scheme. Please note that such justification is not necessary if individual aid amounts do not exceed EUR 200 million;
3. Confirm that the aid is granted under the scheme in the form of direct grants and/or repayable advances and/or loans and/or guarantees and/or tax advantages including tax credits and specify the form(s) of aid;
4. Confirm that the investments eligible for aid under the scheme will enable the beneficiaries to:
  - (i) reduce by at least 40% compared to the situation before the aid, direct greenhouse gas emissions from the relevant industrial installations; for the purposes of verifying the reduction of greenhouse gas emissions, also actual emissions from the combustion of biomass is to be taken into account; and/or
  - (ii) reduce by at least 20% compared to the situation before the aid, energy consumption in industrial installations in relation to the aided activities;
5. In relation to industrial decarbonisation investments under point (i) above, please provide the following information:
  - (i) Please confirm that the aided installations currently rely on fossil fuels as energy source or feedstock and specify which fossil fuels;
  - (ii) Please confirm that the reduction of greenhouse gas emissions would be attained by means of the electrification of the production processes, or the use of renewable or electricity-based hydrogen, or the use of renewable hydrogen-derived fuels;
  - (iii) Please explain the methodology that beneficiaries will be required to use to demonstrate that the aided project will lead to the required reduction of greenhouse gas emissions. Please confirm that such methodology is applied uniformly across the scheme and will also take into account actual emissions from the combustion of biomass;
  - (iv) Please confirm that the reduction in direct greenhouse gas emissions will be measured under the scheme by reference to average direct

greenhouse gas emissions occurred over the five years preceding the aid application (average emission on an annual basis).

6. In relation to energy efficiency investments under point (ii), please provide the following information:
  - (i) Please explain the methodology that beneficiaries will be required to use to demonstrate that the aided project will lead to the required reduction of energy consumption of the aided installation. Please confirm that such methodology is applied uniformly across the scheme;
  - (ii) Please confirm that the reduction of energy consumption will be measured under the scheme by reference to energy consumption occurred over the five years preceding the aid application (average consumption on an annual basis).
7. Please confirm that, in case of investments relating to activities covered by the Emission Trading System (ETS), the aid granted under the scheme leads to a reduction in the beneficiary installation's greenhouse gas emissions going below the relevant benchmarks for free allocation set out in Commission Implementing Regulation (EU) 2021/447;<sup>27</sup>
8. Please confirm that the aid does not aim at financing an increase of the beneficiaries' overall production capacity;
9. Please also confirm that under the scheme, only limited capacity increases resulting from technical necessity are allowed. In this respect:
  - (i) Please confirm that capacity increases linked to the aided project may not exceed 2% compared to the situation before the aid;
  - (ii) If capacity increases exceeding 2% compared to the situation before the aid are allowed, please explain how your authorities will ensure that (i) they result from technical necessity; and (ii) remain limited;
10. In case of aid for industrial decarbonisation investments relying on the use of hydrogen, please confirm and explain how it will be ensured that the hydrogen used is produced from renewable energy sources in accordance with the methodologies set out for renewable liquid and gaseous transport fuels of non-biological origin in Directive (EU) 2018/2001 and its implementing or delegated acts;
11. If the aid is granted for an industrial decarbonisation investment involving the use of renewable hydrogen-derived fuels, confirm that renewable hydrogen-derived fuels comply with the following cumulative requirements and explain how your authorities will ensure compliance with those:
  - (i) They are liquid and gaseous fuels that derive from renewable hydrogen, the energy content of which is derived from renewable sources other than biomass;
  - (ii) they achieve lifecycle greenhouse gas emissions savings of at least 70 % relative to a fossil fuel comparator of 94 g CO<sub>2</sub>eq/MJ; and

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<sup>27</sup> Commission Implementing Regulation (EU) 2021/447 of 12 March 2021 determining revised benchmark values for free allocation of emission allowances for the period from 2021 to 2025 pursuant to Article 10a(2) of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 87, 15.3.2021, p. 29).



- (iii) they have been produced in accordance with the methodologies set out for renewable liquid and gaseous transport fuels of non-biological origin in Directive (EU) 2018/2001 and its implementing or delegated acts;
- 12. Should aid be granted for industrial decarbonisation investments involving the use of hydrogen produced from electricity that does not qualify as renewable hydrogen, confirm that the hydrogen will comply with either or all of the following conditions and explain how your authorities will ensure compliance with those:
  - (i) the hydrogen is produced only in hours in which the marginal generation unit in the bidding zone where the electrolyser is located in the imbalance settlement periods when the electricity is consumed is a fossil-free electricity generation plant;
    - Please explain how it will be ensured that hydrogen produced in hours in which the marginal generation unit in the bidding zone where the electrolyser is located in the imbalance settlement periods when the electricity is consumed is a renewable electricity generation plant is not counted twice (as renewable hydrogen and as electricity-based hydrogen);
  - (ii) the hydrogen is produced from electricity taken from the grid and the electrolyser is producing hydrogen for a number of full load hours equal or lower than the number of hours in which the marginal price of electricity in the bidding zone was set by installations producing fossil-free electricity other than renewable;
  - (iii) the used electricity-based hydrogen achieves life-cycle greenhouse gas emissions savings of at least 70 % relative to a fossil fuel comparator of 94g CO<sub>2</sub>eq/MJ and it originates from fossil-free sources, and only the share of the produced hydrogen corresponding to the average share of electricity from fossil-free electricity generation plants other than renewable electricity generation plants, in the country of production, as measured two years before the year in question, is used;
    - Please describe the method to compute the greenhouse gas emissions allocated to the electricity, and explain how it ensures that it does not lead to an increased consumption of fossil fuels;
    - Please indicate the average share of electricity from fossil-free electricity generation plants other than renewable electricity generation plants, in the country of production, as measured two years before the year in question, and provide supporting evidence;
- 13. Confirm that aid will be granted no later than on 31 December 2025;
- 14. Confirm that aid under the scheme is granted subject to the following conditions:
  - (i) That the installation or equipment to be financed be completed and in operation within 36 months after the date of granting of the aid;
  - (ii) That the scheme should include an effective system of penalties in

case this deadline is not met.

- Please provide a comprehensive description of the envisaged system of penalties, including (i) the level of penalties; (ii) the triggering event; and (iii) possible reasons for exempting the beneficiaries from the payment of penalties;
  - Please explain why you expect the envisaged system of penalties to be effective in ensuring that the supported projects are completed and in operation within 36 months;
15. If the scheme provides aid in the form of repayable advances, please confirm whether, where the abovementioned deadline for completion and entry into operation is respected, such aid may be transformed into grants; if not, please confirm that the repayable advance will be reimbursed in equal annual instalments within five years after the date of granting the aid.
16. Indicate if projects started before 9 March 2023 or 20 July 2022 for investments eligible under the previous Temporary Crisis Framework are eligible for aid under the scheme. In the affirmative, confirm that such projects are eligible only if the aid is necessary to significantly accelerate their implementation, or to widen the scope of the investment.
- If yes, confirm that only the additional costs in relation to the acceleration efforts or the widened scope are eligible for aid;
17. Indicate whether the beneficiaries are subject to Union standards<sup>28</sup> in relation to the aided investment; if yes, please explain how it will be ensured that the aid is not granted for merely complying with applicable Union standards;
18. Please provide a description of the counterfactual scenario that would take place in the absence of the aid.
- (i) With regard to investments reducing direct greenhouse gas emissions by at least 40% compared to the situation before the aid through electrification or through the switch to the use of renewable and electricity-based hydrogen or of renewable hydrogen-derived fuels, confirm that the beneficiaries would continue their activities without changes;
  - (ii) If the counterfactual scenario consists in the beneficiaries continuing their activities without changes, please confirm that this would not entail a breach of Union law;
19. Please indicate which of the following methodologies is used to determine the amount of aid:
- (i) The eligible costs are quantified as the difference between the costs of the aided project and the cost savings or additional revenues generated by the project, compared to the situation in the absence of the aid, over the lifetime of the investment;
    - Please provide the assumptions to be used for quantifying the costs and revenues<sup>29</sup>;

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<sup>28</sup> As defined in point 19(89) of the Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022 (OJ C 80, 18.2.2022, p. 1).

<sup>29</sup> These may include, for instance, assumptions on the price of CO<sub>2</sub> allowances, on energy prices, etc.

- Please indicate the applicable aid intensity and which bonuses, if any, apply. Please confirm that the aid intensity does not exceed 40 % of the eligible costs and may be increased as follows:
    - by up to 10 percentage points for aid granted to medium sized undertakings and by 20 percentage points for aid granted to small undertakings;
    - by up to 15 percentage points for investments delivering a reduction of direct greenhouse gas emissions of at least 55% or a reduction of energy consumption of at least 25% compared to the situation prior to the investment<sup>30</sup>;
  - Confirm that the scheme includes a claw-back mechanism defined ex ante. Describe how such claw-back mechanism will operate and how it allows to address windfall profits, including in times of extremely high electricity or natural gas prices;
- (ii) The aid is granted and the aid amount is determined on the basis of a competitive bidding process. In this case, please provide the following information:
- Describe the design of the competitive bidding process, in order to demonstrate its open, clear, transparent and non-discriminatory nature;
  - Confirm that the competitive bidding process is based on objective criteria that are defined ex-ante;
  - Explain how the risk of strategic bidding is minimised;
  - Provide the selection criteria to be used for ranking bids and confirm that at least 70% in the total selection criteria used for ranking bids is defined in terms of aid per unit of environmental protection (such as EUR per tonne of CO2 reduced, or EUR per unit of energy saved);
  - Confirm that and explain why the budget related to the bidding process is a binding constraint in that it can be expected that not all bidders will receive aid;
- (iii) The eligible costs are the investment costs linked to the eligible decarbonisation or energy efficiency project, in particular costs of equipment, machinery or installations needed to achieve the electrification, switch to hydrogen or hydrogen-derived fuels or energy efficiency improvement. Confirm that the aid intensity does not exceed:
- a. 60% of the eligible costs for projects concerning the switch to

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<sup>30</sup> The reduction in direct greenhouse gas emissions or energy consumption must be measured by reference to average direct greenhouse gas emissions or energy consumption occurred over the five years preceding the aid application (average emission/consumption on an annual basis).

the use of renewable and electricity-based hydrogen or of renewable hydrogen-derived fuels (i.e., investments referred to under point 81(d)(i) TCTF other than electrification projects);

- b. 30% of the eligible costs for electrification projects (as referred to in point 81(d)(i)) and for projects reducing energy consumption (as referred to in point 81(d)(ii));
20. Indicate if aid under the scheme can be cumulated with other aid or Union funds in relation to different identifiable eligible costs;
  21. Indicate if aid under the scheme can be cumulated with other aid or Union funds in relation to overlapping eligible costs;
    - (i) If yes, and the aid amount is determined in accordance with the methodologies set out in point 81(n) or (o), confirm that aid granted under the scheme may be cumulated with other aid or Union funds provided that the overall amount of public support does not exceed respectively (i) 40% (plus bonuses, if applicable) of the difference between the costs of the project and the cost savings or additional revenues, compared to the situation in the absence of the aid, over the lifetime of the investment; or (ii) the amount resulting from the competitive bidding process;
    - (ii) If yes, and the aid amount is determined in accordance with the methodologies set out in point 81(p), confirm that aid granted under the scheme may be cumulated with other aid or Union funds provided that the overall amount of public support does not exceed the highest aid intensity and/or aid amount available under any of the relevant rules. Please also confirm that under no circumstances may the total aid amount exceed 100% of the eligible costs.

## SECTION II: ADDITIONAL INFORMATION

### **Point 7: For aid to be granted under section 2.7 of the TCTF: Aid for additional reduction of electricity consumption**

1. Please describe and confirm that the cumulative conditions under point 83 of the TCTF are respected and describe how you verify that those requirements are met:
  - Please confirm that the aid only provides financial compensation for additional electricity not consumed compared to the expected consumption (“counterfactual”) in the hour concerned without the scheme;
  - Please confirm that the aid is designed to primarily contribute to reaching an electricity consumption reduction target set in Articles 3 and 4 of Regulation (EU) 2022/1854. If the aid is designed to go beyond the targets, please demonstrate the additional benefits of the aid, which are necessary and proportionate to remedy the serious disturbance of the economy while preserving the internal market;
  - Please confirm that the aid is granted on the basis of a scheme with an estimated volume and budget;
  - Please specify under which form(s) the aid is granted (e.g. direct grants, loans, or guarantees);
  - Please confirm that the aid is granted in a competitive bidding process that is open, clear, transparent and non-discriminatory, based on objective criteria that are defined ex-ante and that minimise the risk of strategic bidding. If a risk of overcompensation is identified, please explain how windfall profits are addressed;
  - Please confirm that the scheme is open to all possible ways to achieve additional consumption reduction. If not,
    - Please explain which of the circumstances from point 83(g) TCTF justify such limitation; and
    - please confirm that the scheme does not include any artificial limitation or discrimination, and is not unduly limited to specific customers or customer groups;
  - Please confirm that the eligibility criteria for participation in the competitive bidding process(es) are transparent, objective and non-discriminatory. Please confirm that appropriate electricity metering is a prerequisite for providing additional demand reduction. If a minimum bid size requirement applies, please confirm that the minimum size is not higher than 10MW, and please explain the rationale underlying the value of the minimum size;
  - Please confirm that clear and objective criteria describe when the beneficiary’s additional consumption reduction will be activated. If applicable, please describe additional safeguards put in place to avoid creating gaming incentives;
  - Please confirm that beneficiaries of the scheme commit that their additional electricity consumption reduction will not lead to increase their overall gas consumption. If not, please explain why such a safeguard is not necessary;

- For “peak” demand reduction schemes, please confirm that beneficiaries of the scheme commit not to consume more than 150% “off peak” of the compensated “peak” electricity consumption reduction. If not, please explain why such a safeguard is not necessary;
  - Please confirm that, within the competitive bidding process, beneficiaries are selected based on the lowest unit cost of additional consumption reduction. If additional criteria to promote greener technologies necessary to support the delivery of the Union’s environmental protection objectives also apply, please describe these criteria and confirm that they are objective, transparent and non-discriminatory;
  - Please confirm that the aid remuneration is granted to each beneficiary based on the actual additional consumption reduction achieved (as opposed to the commitment for additional consumption reduction);
  - Please state whether the aid is open to cross-border participation. If so, please describe how cross-border participation is set up
  - Please justify how the scheme minimises distortions of the proper functioning of the internal market in electricity;
  - Please confirm that the additional consumption reduction, which is compensated, only takes place within the period of application of the relevant Article(s) of Regulation (EU) 2022/1854, or in case of aid going beyond those targets, by 31 December 2023; and
  - Please state whether cumulation with other State aid measures is allowed. If so, please describe how overcompensation is avoided. In any case, please confirm that the aid does not cover eligible costs, which are already covered by other State aid measures.
2. Please also submit the specifications of the tender for additional consumption reduction.

## SECTION II: ADDITIONAL INFORMATION

### **Point 8: For aid to be granted under section 2.8 of the TCTF: Aid for accelerated investments in sectors strategic for the transition towards a net-zero economy**

#### 1. For schemes falling under point 85 of the TCTF:

- Please list the activities the measure will support; if included in the measure, please describe the key components designed and primarily used as direct input for the production of this equipment and/or production or recovery of related critical raw materials necessary for the production of the equipment and key components;
- Please confirm that the measure takes the form of a scheme and provide the estimated budget;
- Please confirm until when aid can be granted under the scheme;
- Please confirm that beneficiaries must apply for the aid before the start of works (please confirm that the definition of ‘start of work’ corresponds to the definition in the TCTF) and confirm that they must provide the information required in Annex II TCTF;
- Please describe the aid instruments used under the scheme;
- If the aid is channelled through credit institutions or other financial institutions, describe how it is ensured that the advantage is passed on to the final beneficiaries by the financial intermediaries (e.g. in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates than without the envisaged public guarantees);
- Please confirm that the calculation of eligible costs fulfils the requirements of point 85(f) TCTF;
- Please describe the geographic scope of the measure, and the aid intensities and the overall aid amounts in line with point 85(g) TCTF; please also describe any applicable bonus in line with point 85(h) TCTF;
- Please confirm that beneficiaries under the measure will be obliged to 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) TCTF;
- Please confirm that before each individual grant of aid under the scheme, the granting authority will verify, on the basis of the information provided by the beneficiary, 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;
- Please confirm 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;

- Please confirm that aid under the measure will not be granted to undertakings in difficulty;
- Please confirm 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, and that under no circumstances may the total aid amount exceed 100 % of the eligible costs;
- Please explain any further eligibility requirements under the scheme (e.g. in relation to environmental protection in line with point 38 TCTF, social protection or employment conditions) and justify why they are not discriminatory;
- Please commit 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 in line with Annex II attached to the TCTF.

2. For ad hoc aid to be notified under point 86 of the TCTF: *please contact the responsible services within DG Competition.*



## ANNEX I - LANGUAGE WAIVER

In order to speed up the processing of the notification, the below language waiver should be provided with the notification, on letterhead of the relevant authorities, dated and signed. Please clearly identify the measure(s) for which the language waiver is provided by including the title provided in SANI and the State aid number assigned to the notification.

*Due to the urgent need to adopt and notify a Decision in relation to the present notification relating to [brief description of the scheme subject to the notification], the [national: specify] government agrees exceptionally to waive its rights deriving from Art. 342 TFEU in conjunction with Article 3 of Regulation 1/1958 and to have the planned Decision adopted and notified pursuant to Article 297 of the Treaty in the English language.*