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**Subject: State Aid SA.109581 (2024/N) – Poland
TCTF: Aid for investment projects in sectors strategic for the
transition towards a net-zero economy**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 17 July 2024, Poland notified an aid scheme for investment projects in sectors strategic for the transition towards a net-zero economy, the ‘measure’) under the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the ‘Temporary Crisis and Transition Framework’) ⁽¹⁾. Poland submitted additional information on 29 July and on 5 August 2024.
- (2) Poland 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 on the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 101, 17.3.2023, p. 3), as amended by Commission Communications C(2023)8045 (OJ C1188, 21.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1188/oj> and C(2024)3123 (OJ C3113, 2.5.2024, ELI: <http://data.europa.eu/eli/C/2024/3113/oj>).

Jego Ekscelencja Radosław Sikorski
Minister Spraw Zagranicznych
Al. J. Ch. Szucha 23
00 - 580 Warszawa
POLSKA/POLAND

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

2. DESCRIPTION OF THE MEASURE

- (3) Poland considers that the Russian aggression against Ukraine and its direct and indirect effects, including the sanctions imposed and the counter-measures taken, for example by Russia have economic repercussions on the entire internal market ('the current crisis'). The current crisis created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods.
- (4) In this context, the Polish authorities underline that it is imperative for Poland, and for the EU in general, to reduce its dependence on fossil fuels by accelerating the deployment of renewable energies and decarbonising industry. Poland reminds that it has been ranked as the fifth biggest emitter of greenhouse gases per capita in the EU ⁽³⁾.
- (5) At the same time, it is estimated that about 40 percent of Poland's gross domestic product, capital, and jobs involve sectors that will undergo the most significant transformation due to the high emission performance of their products, activities, or supply chains ⁽⁴⁾. The Polish authorities explain that there is also an urgency to accompany this transformation and increase the capacity in strategic sectors to move towards a net-zero-emission economy.
- (6) Based on these considerations, Poland recognises that additional strategic investments are needed to address both the energy and economic transitions, the former being important not only to improve the quality of the environment, to meet climate commitments and address fossil fuel dependency, but also to keep the economy performant and competitive. To that end, the Polish authorities intend to set up a scheme to encourage private productive investment in sectors of strategic importance for the transition to a net-zero-emission economy and create incentives for their rapid implementation, especially in light of global challenges and the risk that new investment in these sectors will be diverted to third countries outside the European Economic Area ('EEA'). According to Poland, the measure is appropriate to create the investment incentives in sectors strategic for the transition to a net-zero economy, as acknowledged by the Commission ⁽⁵⁾, namely "*batteries, windmills, heat-pumps, solar, electrolyzers, carbon capture and storage technologies*" that are "*key to meet the Commission's climate neutrality goals*".

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

⁽³⁾ May 25, 2023; [Lifting Poland's ambition. On the cusp of a new era? | McKinsey](#)

⁽⁴⁾ Same study.

⁽⁵⁾ Communication from the Commission of 1.2.2023, A green deal industrial plan for the net-zero age, COM(2023) 62 final.

- (7) Poland confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the 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.
- (8) The compatibility assessment of the measure is based on Article 107(3), point (c) TFEU, in light of sections 1 and 2.8 of the Temporary Crisis and Transition Framework.

2.1. The nature and form of aid

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

2.2. Legal basis

- (10) The legal basis for the measure is Article 53 of the Act of 7 July 2023 on the preparation and implementation of investments in the National Data Processing Center (*“Ustawa z dnia 7 lipca 2023 r. o przygotowaniu i realizacji inwestycji w zakresie Krajowego Centrum Przetwarzania Danych”*), and the regulation of the Minister of Economic Development and Technology of 29 September 2023 on granting State aid for implementation of the investment project of strategic importance for transition towards net-zero carbon economy (*“Rozporządzenie Ministra Rozwoju i Technologii z dnia 29 września 2023 r. w sprawie udzielania pomocy publicznej na realizację projektów inwestycyjnych o znaczeniu strategicznym dla przejścia na gospodarkę o zerowej emisji netto”*), which is currently being amended (the ‘legal basis’). The regulation contains a provision whereby no aid can be granted before the Commission’s approval.

2.3. Administration of the measure

- (11) The Ministry of Economic Development and Technology, supported by the Polish Investment and Trade Agency, is responsible for administering the measure.

2.4. Budget and duration of the measure

- (12) The measure is a scheme with an estimated budget of PLN 5 billion (approximately EUR 1.2 billion)⁽⁶⁾. The measure will be financed by the national budget.
- (13) Aid may be granted under the measure as from the notification of the Commission’s decision approving the measure until no later than 31 December 2025.

2.5. Beneficiaries

- (14) The final beneficiaries of the measure are small and medium enterprises (‘SMEs’)⁽⁷⁾ and large enterprises⁽⁸⁾, investing in strategic sectors for the transition to a net zero economy (*i.e.*, the sectors listed in recital (18)).

⁽⁶⁾ PLN 1 = EUR 0.23, exchange rate of 18.7.2024.

- (15) Undertakings in difficulty as defined by the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ⁽⁹⁾, as well as undertakings subject to an obligation to repay an aid declared unlawful and incompatible with the internal market by a previous decision of the European Commission are excluded as eligible beneficiaries.
- (16) Poland confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the Union, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the Union; or (iii) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions.
- (17) Poland confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the Union or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations ⁽¹⁰⁾. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

2.6. Sectoral and regional scope of the measure

- (18) The measure aims at incentivising:
- (a) the production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture usage and storage (CCUS); or
 - (b) the production of key components ⁽¹¹⁾ provided they are designed and primarily used as direct input for the production of the equipment defined under (a); or

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

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

⁽⁹⁾ Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

⁽¹⁰⁾ 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).

⁽¹¹⁾ Key components for the production of heat pumps are: valves (for example four-way valve, EEV valve), casing and mounting elements (for example frames), control panels, coolant filters, evaporators, evaporator antifreeze units (for example heaters), piping systems, heat exchangers and supporting devices, compressors and supporting devices, recuperator, geostrong heat exchanger, ground heat exchange modules, glycol heater/cooler, electric motors, oil separator tanks and supporting devices, vents, circulation pump, cooling agents/operating media. Key components for the production of batteries are: (i) for *lithium-ion batteries (or sodium ion batteries), sodium-ion batteries, potassium-ion batteries, sodium-sulphur batteries*: cathodes, anodes, tape (tape connecting the components), al-pouch (aluminium foil, in which other cell components are placed), compression pads (components, which balance the pressure during battery loading and unloading), leads (plates

(c) the production or recovery of related critical raw materials ⁽¹²⁾ necessary for the production of the equipment and key components defined in (a) and (b) above.

(19) It applies to the whole territory of Poland.

2.7. Basic elements of the measure

(20) The purpose of the measure is to grant aid for investments in the production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for CCUS (recital (18)i), of key components designed and primarily used as direct input for the production of these equipment (recital (18)ii) and for the production or recovery of related critical raw materials necessary for those productions of equipment and key components (recital(18)iii). Eligible types of investments are initial investments as defined in Article 2, point (49), of Commission Regulation (EU) No 651/2014.

enabling power flow), cells, heat-conducting resin, busbar (an electronic element enabling connection of cells between each other), end plate (“caps” placed in the mono frame upon filling the module with electrolyte), battery casings, battery management systems, battery modules, battery packages, battery fasteners/leaden plates, aggregate belts, cables, electrolytes, separators, copper foil; (ii) for *flow batteries (Redox) (RFB)*: current collectors (copper plate or foil), battery casings and other plastic elements, construction materials (pipes, sheets, plates), carbon plates, bipolar plates, cation or anion exchange membranes/separators, electrode materials (porous graphite yarn, carbon yarn, carbon material), electrolyte storage tank, electrolyte solutions containing one or more electroactive redox couples systems (inorganic or organic), electrolyte solution circulation pumps; (iii) for *heat batteries*: battery management systems, heat exchangers, heat accumulation media (solid phase or phase change type), casings with insulation and accumulation layer. Key components for the production of solar panels are: frame, protective screens, solar cells, polysilicon, silicon crystals, crystal drawing stations, cutting saws and diamond wires, metallising pastes (silver and aluminium), solar glass, energy management system, perovskite cells, thermoregulators, frequency inverters, inverters, cleaning and damage detection systems. Key components for the production of electrolysers and fuel cells are: transformers, transducers, electrical switchboards, high- and low-pressure gas cylinders, separators, radiators and evaporators, cooling system deionizers, pressure regulators, temperature regulators, gas detection systems, ATEX components, compressors, operational and emergency ventilation systems, electronic control software, electronic control units, gas filter systems, cathodes, membranes, bipolar plates, heat exchangers, hydrogen filters, hydrogen cooling systems, anodes, sealing powders - BaO (barium oxide), Al₂O₃ (aluminium oxide) and SiO₂ (silicon oxide), gas dryers. Key components for the production of wind turbines are: towers and foundations (foundation structures), rotor hubs, rotor blades, rotor shafts, bearings, gears (gearboxes), power generators, cooling and lubricating systems (air, oil), transformers, switch cabinets, control systems, nacelle and rotor blade rotation mechanisms, dampers, noise monitoring detectors, anti-lightning devices, UPS (uninterrupted power supply), controllers, transducers, brakes, gear oils, internal and export cable used for power off-take from the offshore wind farms, anti-icing systems. Key components for the production of CO₂ utilisation and storage (CCUS) devices are: installations and compressors for air separation, fluidisation installations, sorptive agents, membranes, porous materials for pressure swing adsorption, fluidized bed reactors, surface and underground equipment of the injection and observation boreholes adapted for work in CO₂ environment, borehole heads adapted for CO₂ injection, CO₂-resistant casing, CO₂-resistant operational pipes, CO₂-resistant drilling cements, CO₂ buffer storage tanks, service tanks, compressors, sensors, detectors, surface and underground monitoring systems (including optic fibre cables), CO₂ cleaning and drying systems, CO₂-resistant pipes for construction of pipelines for CO₂ transmission.

⁽¹²⁾ Poland refers to the EU list of critical raw materials contained in Annex IV to Commission Regulation No 651/2014.

- (21) Eligible costs relate to all investment costs in tangible assets (such as land, buildings, installations, equipment, machinery) and intangible assets (such as patent rights, licenses, technical know-how or other intellectual property) strictly necessary for the investments listed in recital (18). Intangible assets must: i) remain associated with the area concerned and must not be transferred to other areas; ii) be used primarily in the relevant production facility receiving the aid; iii) they must be amortisable; iv) be purchased under market conditions from third parties unrelated to the buyer; v) be included in the assets of the undertaking that receives the aid; and iv) must remain associated with the project for which the aid is awarded for at least five years (or three years for SMEs).
- (22) Beneficiaries must apply for aid before the start of works⁽¹³⁾ and aid applications must contain the information required in Annex II to the Temporary Crisis and Transition Framework.
- (23) In their aid applications, undertakings have to confirm that they fulfil the following eligibility conditions: (i) a minimum amount of EUR 110 million⁽¹⁴⁾ of investment, (ii) the creation of at least 50 new workplaces linked to the project (iii) a commitment to complete the investment no later than seven years from the start of works. In addition, they have to comply with at least five out of a series of supplementary objective criteria set in the legal basis⁽¹⁵⁾.
- (24) Based on the information submitted in the aid application, the granting authority will verify the concrete risks of the productive investment not taking place within the EEA and that there is no risk of relocation within the EEA. In this regard, the Polish authorities confirm that the beneficiary will have in its application to confirm that in the two years preceding the application for aid, it has not carried out a relocation to the establishment in which the aided investment is to take place; and to commit not to carry out such relocation up to a period of two years after completion of the investment.
- (25) The Polish authorities confirm that the aid intensity will not exceed 15 % of the eligible costs defined in recital (21). This maximum can be raised to 20 % for investments in the ‘c’ assisted areas designated in the regional aid map for Poland⁽¹⁶⁾ in accordance with Article 107(3), point (c), TFEU, and to 35 % for investments in the ‘a’ assisted areas designated in that map in accordance with Article 107(3), point (a), TFEU. The aid intensities will be increased by 20

⁽¹³⁾ In accordance with footnote 145 of the Temporary Crisis and Transition Framework: ‘Start of works’ means either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible, whichever is earlier. Buying land and preparatory works such as obtaining permits and conducting preliminary feasibility studies are not considered as start of works.

⁽¹⁴⁾ This amount will be converted on the basis of the exchange rate announced by the National Bank of Poland on the day when the grant agreement is signed.

⁽¹⁵⁾ Those additional criteria include, amongst others (i) the creation of specialised workplaces; (ii) the net increase in the number of employees above the minimum threshold; (iii) SME status; (iv) location of the investment in an area at risk of exclusion; or (v) performing economic activities with low negative impact on the environment.

⁽¹⁶⁾ Commission decision of 28 September 2021 in case SA.64284 (2021/N), Regional aid map for Poland (1 January 2022 – 31 December 2027) (OJ C 253, 1.7.2022, p. 2), amended by decision of 16 February 2023 in case SA.105494 (OJ C 90, 10.3.2023, p. 10).

percentage points for small enterprises, and by 10 percentage points for medium-sized enterprises.

- (26) The maximum aid amount per project will be calculated based on a formula⁽¹⁷⁾ taking into account the planned amount of eligible costs, the maximum intensity applicable and the number of points obtained through the commitment to meet the supplementary objective criteria (recital (23)), within the limit of a maximum aid per undertaking in Poland of EUR 150 million (raised to EUR 200 million in the ‘c’ assisted areas and to EUR 350 million in the ‘a’ assisted areas mentioned in recital (25)).
- (27) The Polish authorities indicate that the maximum aid intensity for investments in the production of heat pumps and in the production of key components designed and primarily used for the production of heat pumps will however be reduced by 50 %. According to Poland, this is due to the fact that investments in the production of heat pumps are less innovative than other supported industries. Those investments involve limited technology transfer and high labour intensity, and as a result, less significant impact on Poland’s economy than in other cases.
- (28) The Polish authorities confirm that beneficiaries must commit to maintain the investments in the area concerned for at least five years or three years for SMEs, after the completion of the investment. Such a commitment should not prevent the replacement of plant or equipment that has become outdated or broken within this period, provided that the economic activity is retained in the area concerned for the minimum period. However, no further aid may be awarded to replace that plant or equipment.
- (29) The Polish authorities confirm that they will inform the Commission within 60 days from the moment of granting the aid, 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 Annex II of the Temporary Crisis and Transition Framework

2.8. Compliance with relevant provisions of Union law

- (30) The Polish authorities 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.

2.9. Cumulation

- (31) The Polish authorities confirm that aid under the measure may be cumulated with aid under *de minimis* Regulations⁽¹⁸⁾ and/or with aid under Commission

⁽¹⁷⁾ maximum amount of aid (PLN) = $a \times b \times c \div 10$, where a is the amount of eligible costs of the project (PLN), b the maximum aid intensity (%), and c the number of points obtained for the commitment to meet the supplementary objective criteria.

⁽¹⁸⁾ Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L, 2023/2831, 15.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2831/oj>), 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, 26.4.2012, p. 8).

Regulation (EU) No 651/2014, provided the provisions and cumulation rules of those Regulations are respected. Aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Crisis and Transition Framework and the previous Temporary Crisis Framework provided the provisions in those specific sections are respected.

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

2.10. Monitoring and reporting

- (33) The Polish authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis and Transition Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 6 months from the moment of granting ⁽¹⁹⁾).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (34) By notifying the measure before putting it into effect (recital (10)), the Polish authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (35) 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.
- (36) The measure is imputable to the State, since it is administered by the Ministry of Economic Development and Technology, supported by the Polish Investment and Trade Agency, (recital (11)) and it is based on national legislation and on a regulation of the Minister of Economic Development and Technology (recital (10)). It is financed through State resources, since it is financed by public funds (recital (12)).
- (37) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (9)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.

⁽¹⁹⁾ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014.

- (38) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. those carrying out investments listed in recital (18), while other undertakings in a comparable legal and factual situation within that sector or other sectors (considering that all economic operators should in principle cover their own costs) are not eligible for aid and thus will not receive the same advantage. It is also selective since it only favours the production of certain goods.
- (39) 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.
- (40) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Polish authorities do not contest that conclusion.

3.3. Compatibility

- (41) 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.
- (42) Pursuant to Article 107(3), point (c), TFEU, the Commission may declare compatible with the internal market ‘aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest’.
- (43) The current crisis has demonstrated the urgent need to reduce dependency on imports of fossil fuels and to accelerate the energy transition. In that context, the Commission considers that Member States may need to take additional measures to address the productive investment gap in sectors strategic for the transition towards a net-zero economy in order to achieve the Union’s climate targets. The adoption of the Temporary Crisis and Transition Framework demonstrates the Commission’s view that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3), point (c), TFEU for a limited period of time if contributes to accelerating the economic transition and addressing the productive investment gap in sectors strategic for the transition towards a net-zero economy by providing incentives for their fast deployment, also considering global challenges posing a threat of new investments in these sectors being diverted in favour of third countries outside the EEA (recitals (3) to (6)).
- (44) The Commission considers that the measure is necessary, appropriate and proportionate in the current context and can be declared compatible with the internal market on the basis of Article 107(3), point (c) TFEU. In particular:
 - (a) the measure is aimed at investment projects with strategic importance for the transition towards a net-zero economy. The measure will support the production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for CCUS as well as the production of related key components and the production or recovery of related critical raw

materials (recital (18)). The measure therefore complies with point 85(a) of the Temporary Crisis and Transition Framework;

(b) the aid is granted under the measure on the basis of a scheme with an estimated budget (recital (12)). The measure therefore complies with point 85(b) of the Temporary Crisis and Transition Framework;

(c) aid under the measure can be granted until 31 December 2025 at the latest (recital (13)). The measure therefore complies with point 85(c) of the Temporary Crisis and Transition Framework;

(d) the measure provides that beneficiaries must apply for the aid before the start of works and must provide the information required in Annex II of the Temporary Crisis and Transition Framework (recital (22)). The measure therefore complies with point 85(d) of the Temporary Crisis and Transition Framework;

(e) aid under the measure will be granted in the form of direct grants (recital (9)). The measure therefore complies with point 85(e) of the Temporary Crisis and Transition Framework;

(f) the calculation of eligible costs as set out in recital (21) fulfils the requirements of point 85(f) of the Temporary Crisis and Transition Framework;

(g) the aid intensities and the overall aid amounts under the measure (recitals (25) and (26)) correspond to the thresholds in point 85(g) of the Temporary Crisis and Transition Framework, increased in accordance with point 85(h) of the Temporary Crisis and Transition Framework;

(h) Poland commits that beneficiaries under the measure will maintain the investments in the area concerned for at least five years, or three years for SMEs, after the completion of the investment, and to respect the additional conditions set in line with point 85(i) of the Temporary Crisis and Transition Framework (recital (28)). The measure therefore complies with point 85(i) of the Temporary Crisis and Transition Framework;

(i) Poland commits that before each individual grant of aid under the scheme, the granting authority will verify, on the basis of the information provided by the 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 (recital (24)). The measure therefore complies with point 85(j) of the Temporary Crisis and Transition Framework;

(j) Poland commits that beneficiaries under the measure will have to (i) confirm that in the two years preceding the application for aid, they have not carried out a relocation to the establishment in which the aided investment is to take place; and (ii) commit not to carry out such relocation up to a period of two years after completion of the investment (recital (24)). The measure therefore complies with point 85(k) of the Temporary Crisis and Transition Framework;

(k) aid under the measure will not be granted to undertakings in difficulty (recital (15)). The measure therefore complies with point 85(l) of the Temporary Crisis and Transition Framework;

(l) Poland confirmed that aid under the measure may be cumulated with State aid in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable under any of the relevant rules and that under no circumstances may the total aid amount exceed 100 % of the eligible costs (recital (32)). The measure therefore complies with point 59, second sentence, and point 85(m) of the Temporary Crisis and Transition Framework;

(m) Poland committed to inform the Commission, within 60 days from the moment of granting individual aid under the measure, about the granting date, the aid amount, the eligible costs, the beneficiary's identity, the type and location of the investment supported on the basis of the information provided by the beneficiary (recital (29)). The measure therefore complies with point 85(o) of the Temporary Crisis and Transition Framework.

- (45) State aid measures that entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law cannot be declared compatible with the internal market ⁽²⁰⁾.
- (46) Poland has confirmed that the proposed measure does not by itself, or by the conditions attached to it or by its financing method constitute a non-severable violation of Union law. In addition, the Commission has no indications of any possible breach of Union law that would prevent the notified measure from being declared compatible with the internal market.
- (47) Therefore, the Commission considers that the measure does not infringe any relevant provisions of Union law.
- (48) The Polish authorities confirm that, as required by point 51 of the Temporary Crisis and Transition Framework, the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (7)).
- (49) The Polish authorities confirm that, as required by point 52 of the Temporary Crisis and Transition Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the Union, including but not limited to:
- (a) persons, entities or bodies specifically named in the legal acts imposing those sanctions;
 - (b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the Union; or
 - (c) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions (recital (16)).

⁽²⁰⁾ Judgment of 31 January 2023, *Commission v Braesch and Others*, C-284/21 P, EU:C:2023:58, paragraphs 96 et seq.

- (50) The Polish authorities confirm that the monitoring and reporting requirements set out in section 3 of the Temporary Crisis and Transition Framework will be respected (recital (33)). The Polish authorities further confirm that aid under the measure may only be cumulated with other aid granted under other measures approved by the Commission under other sections of the Temporary Crisis and Transition Framework and the previous Temporary Crisis Framework if the specific provisions in the relevant sections of the Temporary Crisis and Transition Framework, and the previous Temporary Crisis Framework are respected (recital (31)).
- (51) The Commission has taken due consideration of the fact that the measure facilitates the development of certain economic activities and of the positive effects of that measure which accelerates the economic transition and overcomes the current crisis when balancing those effects against the potential negative effects of the measure on the internal market. The Commission considers that the positive effects of the measure outweigh its potential negative effects on competition and trade and it is compatible with the internal market pursuant to Article 107(3), point (c), TFEU since it meets all the relevant conditions of the Temporary Crisis and Transition Framework.

4. CONCLUSION

The Commission has decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3), point (c), TFEU.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <https://competition-cases.ec.europa.eu/search?caseInstrument=SA>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President