

COMMISSION DECISION (EU) 2018/341**of 27 September 2017****on State aid scheme SA.34433 (2012/C) (ex 2012/NN) implemented by France (tax for the benefit of the national organisation of agriculture and fisheries products (FranceAgriMer) — Article 25 of Law No 2005-1720 of 30 December 2005)***(notified under document C(2017) 4431)***(Only the French text is authentic)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having called on interested parties to submit their comments pursuant to that Article,

Whereas:

I. PROCEDURE

- (1) Following a complaint, the Commission asked the French authorities by fax of 28 November 2011 to provide it with any information necessary for an investigation, under Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU), into the tax established by Article 25 of Law No 2005-1720 of 30 December 2005 for the benefit of the national organisation of agriculture and fisheries products (FranceAgriMer) ('the tax'). The French authorities had one month to submit the information in question.
- (2) By letter of 11 December 2011, France asked the Commission to extend that deadline to 1 February 2012.
- (3) The Commission granted that extension by fax of 12 December 2011.
- (4) In an email of 14 February 2012, France sent the Commission the information requested on 28 November 2011.
- (5) By fax of 5 March 2012, the Commission informed the French authorities that a case of non-notified aid had been opened under reference number SA.34433 (2012-NN), since the tax had been implemented without the aid having been notified to the Commission pursuant to Article 108(3) TFEU and approved by it. By fax of 14 June 2012, the Commission informed the French authorities that the scope of the case would be expanded, as an analysis of the information available had shown that a *de minimis* regulation had not been applied properly, thereby transforming into non-notified aid a measure that, had the *de minimis* regulation been applied properly, would not have constituted State aid within the meaning of Article 107(1) TFEU.
- (6) By letter of 4 October 2012 ⁽¹⁾, the Commission informed France of its decision of 3 October 2012 to initiate the procedure provided for in Article 108(2) TFEU as regards the application of the tax. It invited the French authorities to submit within one month their comments on the initiation of the procedure.
- (7) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Union* ⁽²⁾. The Commission invited interested parties to submit their comments on the measure.
- (8) The Commission did not receive any comments from interested parties.
- (9) By email of 16 October 2012, France asked the Commission to extend by one month (until 4 December 2012) the deadline for sending France's reply to the initiation of the procedure provided for in Article 108(2) TFEU.
- (10) The Commission granted that extension by fax of 18 October 2012.

⁽¹⁾ Letter SG-Greffe (2012) D/15827.

⁽²⁾ OJ C 361, 22.11.2012, p. 10.

- (11) By email of 5 December 2012, France submitted to the Commission its reply to the initiation of the procedure provided for in Article 108(2) TFEU.
- (12) After examining that reply, the Commission and the French authorities met on 12 December 2012 in order to clarify certain points relating to the case. Following that meeting, the Commission requested further information by fax of 15 January 2013.
- (13) By email of 18 February 2013, France sent the Commission a letter with the additional information requested on 15 January 2013. The French authorities submitted new information on 23 June 2016 in reply to the Commission's request for information of 8 October 2015 and on 20 January 2017 in reply to the Commission's request of 19 October 2016.

II. DESCRIPTION

- (14) Article 25 of Law No 2005-1720 of 30 December 2005 (Amending Finance Law for 2005) establishes a tax for the benefit of FranceAgriMer for the purpose of financing its measures in favour of the dairy market. Its latest consolidated version dates from 1 January 2012.
- (15) The tax is payable by cow's milk producers having an individual reference quantity for direct sales within the meaning of Council Regulation (EC) No 1788/2003 ⁽¹⁾, and by milk purchasers. It is based on:
 - the quantity of cow's milk delivered by the producer in the form of milk in the 12 months preceding 1 April of each year ('reference period') in excess of the reference quantity for milk deliveries during that period notified to the producer by FranceAgriMer (in that case, FranceAgriMer informs each purchaser to whom the producer has delivered milk of the amount of tax due and the milk purchaser pays to FranceAgriMer, within one month of that notification, the revenue from the tax levied on producers delivering milk to it),
 - the quantity of cow's milk sold, transferred or used to make milk products sold or transferred by the producer during the reference period in excess of the reference quantity for direct sales during that period notified to the producer (in that case, FranceAgriMer informs each producer having carried out direct sales of the amount of tax due and the producer pays to FranceAgriMer, within one month of that notification, the revenue from the tax that it is liable to pay).
- (16) Tax refunds may be ⁽²⁾ cumulative. The operative event for the tax is the delivery of milk or the direct sales of milk or milk products during the reference period. For example, under Article 4 of the Decree of 17 August 2010 on levying a tax on milk purchasers and producers who have exceeded their individual delivery quota for the 2009-2010 marketing year, and within the limits of what is available at national level at the end of the 2009-2010 marketing year, FranceAgriMer reimburses to purchasers part of the tax payable by producers delivering milk to them, according to the following arrangements:
 - all producers receive a refund equivalent to 1 % of their quota ⁽³⁾,
 - producers whose individual quota is equal to or less than 160 000 litres also receive a maximum refund of EUR 2 866, which corresponds to a quantity of 10 000 litres,
 - producers whose quota ranges between 160 000 and 169 000 litres receive an additional refund calculated so as to allow them to reach 171 600 litres.
- (17) If a producer is liable for paying the levy laid down in Article 1(1) of Regulation (EC) No 1788/2003, the tax will not be charged for the quantities in question. In accordance with this provision, a levy was established as from 1 April 2004 for 11 consecutive 12-month periods starting on 1 April on quantities of cow's milk and other milk products that are marketed during such a 12-month period and exceed the national reference quantity.

⁽¹⁾ Council Regulation (EC) No 1788/2003 of 29 September 2003 establishing a levy in the milk and milk products sector (OJ L 270, 21.10.2003, p. 123).

⁽²⁾ That term also covers the 'rebates' referred to in the decision to initiate an investigation.

⁽³⁾ In fact, according to the information provided by the French authorities, the refund is not calculated on the quota but on the quantity in excess of the quota (see recital 29).

- (18) The tax rate was set at EUR 28,54 per 100 kilograms of milk for the 2006-2007 marketing year and at EUR 27,83 for the following marketing years.
- (19) The revenue from the tax is used to finance the partial or total cessation of dairy production through special aid for this purpose (ACAL). In practice, the beneficiary receives compensation per litre from FranceAgriMer, which is a public body. The other sources of financing for the aid scheme for the cessation of dairy production consist of funds from the system of specific transfers of quotas without land (TSST) ⁽¹⁾, the State budget and, possibly, local funds. A part of the revenue from the tax has also been used to support dairy companies forced to destroy milk contaminated by polychlorinated biphenyls (PCBs) during the 2007-2008 marketing year. According to the French authorities, this financial support was granted under a *de minimis* scheme pursuant to Commission Regulation (EC) No 1998/2006 ⁽²⁾.
- (20) The amount of aid for the cessation of dairy production is calculated as follows:

EUR/litre	2010-2011	2011-2012	2012-2013	2013-2014
Up to 100 000 litres	0,15	0,1125	0,075	0,0375
100 001 to 150 000 litres	0,08	0,06	0,04	0,02
150 001 to 200 000 litres	0,05	0,0375	0,025	0,0125
Over 200 000 litres	0,01	0,0075	0,005	0,0025

- (21) The revenue from the tax and its use varied as follows until the 2010-2011 marketing year:

(EUR)						
Marketing year	Tax levied	Aid for the cessation of dairy production, financed by the tax	Aid for the cessation of dairy production, financed by other taxes	Including the specific transfer of quotas without land	Total aid for the cessation of dairy production	Other activities financed by the tax
2005/2006	17 080 881	No aid scheme for the cessation of dairy production				
2006/2007	11 858 443	12 851 977	21 509 339	21 454 252	34 361 316	
2007/2008	2 959 456	13 228 140	33 848 558	32 798 510	47 076 698	1 260 753
2008/2009	17 183 670	2 571 271	23 411 722	21 311 722	25 982 992	
2009/2010	10 093 611	17 909 294	12 349 799	12 349 799	30 259 093	
2010/2011	12 629 142	9 904 398	18 021 681	18 021 681	27 926 079	
Total	71 805 202	56 465 080	109 141 098	105 935 964	165 606 178	

III. GROUNDS FOR INITIATING THE FORMAL INVESTIGATION PROCEDURE

- (22) The Commission decided to initiate the procedure provided for under Article 108(2) TFEU for the following reasons:
- it appeared that the very levying of the tax involved State aid within the meaning of Article 107(1) TFEU, because it included refunds that did not seem to be justified by the logic of the tax system in place; furthermore, those aid elements did not seem justifiable in the light of the State aid rules applied in the agricultural sector,

⁽¹⁾ System for purchasing quotas

⁽²⁾ Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (OJ L 379, 28.12.2006, p. 5).

- the cessation of dairy production, financed, in particular, by the tax, could be partial or total; however, under the State aid rules applied in the agricultural sector, aid for the cessation of an activity may be declared compatible with the internal market only if all commercial farming activities are discontinued,
- a part of the tax has been used to finance the destruction of milk contaminated by PCBs under a *de minimis* scheme based on Regulation (EC) No 1998/2006; however, it is not certain whether that Regulation was the appropriate legal basis for granting *de minimis* aid in this particular case, besides, choosing an inappropriate legal basis might give rise to State aid whose compatibility with the internal market has not yet been demonstrated,
- the levying of the tax and aid for the cessation of activities might be incompatible with the common organisation of the market in milk or disrupt its operation; the State aid rules concerning agriculture specify that a measure having such characteristics cannot be declared compatible with the internal market.

IV. THE FRENCH AUTHORITIES' COMMENTS ON THE INITIATION OF THE FORMAL PROCEDURE

- (23) In their letter sent by email of 5 December 2012, the French authorities emphasise first of all that there is a legal basis for aid for the cessation of dairy production in Union legislation on the common organisation of the market. That legal basis, provided by Article 75(1)(a) of Council Regulation (EC) No 1234/2007 ⁽¹⁾, allows Member States to grant compensation in one or more annual instalments to producers who undertake to abandon permanently all or part of their milk production and to place the individual reference quantities thus released in the national reserve. According to the French authorities, that Article applies independently of other provisions on the management of milk quotas and on the imposition of a possible levy in the case of overrun quotas.
- (24) The French authorities, referring to the Commission's position whereby financing the cessation of dairy production corresponds *prima facie* to the definition of State aid, go on to underline that Union legislation prior to 2007, and in particular Regulation (EC) No 1788/2003, contained no express reference to the obligation to notify aid concerning products in the milk and milk products sector. They point out that the situation was clarified by Article 180 of Regulation (EC) No 1234/2007, which explicitly subjects aid for the cessation of dairy production to the notification procedure, and that they honestly believed they had complied with Union legislation by regularly submitting information on the compensation system to the Commission via questionnaires. In any case, according to the French authorities, the Commission knew of the existence of aid for the cessation of dairy production, since it had questioned France about the measure when investigating aid for voluntary dairy production cutbacks in Brittany (aid measure N 290/2007 — ARVAL). The authorities conclude their argument by undertaking to notify the Commission of the system in future (as has been done, see recital 53).
- (25) As regards the compatibility of aid for the cessation of dairy production with the internal market and, in particular, the Commission's observation that the scheme does not seem to comply with point 88 of the Community Guidelines for State aid in the agriculture and forestry sector 2007 to 2013 (the '2007-2013 Guidelines') ⁽²⁾, the French authorities argue that the aid scheme for the cessation of dairy production falls under Article 75 of Regulation (EC) No 1234/2007 and that the Commission should take this into account in its analysis. Furthermore, they indicate that only a part of producers' applications for aid for the cessation of dairy production concerns the cessation of activities due to retirement (around 10 % of all eligible producers); those applications meet the conditions for the full and permanent cessation of all commercial farming activities. As regards the other producers, the French authorities consider that the aid scheme for the cessation of dairy production is compatible with the internal market according to points 143 and 144 of the 2007-2013 Guidelines concerning aid for closing of production, processing and marketing capacity for agricultural products.
- (26) As regards points 143 and 144 of the 2007-2013 Guidelines, the French authorities point out that there is overcapacity in the milk sector, as referred to in recital 30 of Regulation (EC) No 1234/2007, and stress that under that Regulation the cessation of activities may be partial or full. In addition, according to the French authorities, aid for the cessation of dairy production meets the condition that the beneficiary must offer a counterpart. The counterpart consists of the specific transfer of quotas without land, a measure introduced

⁽¹⁾ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

⁽²⁾ OJ C 319, 27.12.2006, p. 1.

in 2006 under Article 18(1)(b) of Regulation (EC) No 1788/2003. Transfers are made against payment by producers who have been granted released milk reference quantities according to a defined scale. Compensation calculated using the same scale as for aid for the cessation of dairy production is paid to producers transferring the milk reference quantity available to them. The scale and its link to aid for the cessation of dairy production are subject to an annual order issued for each marketing year. According to the French authorities, through the specific transfer of quotas without land the receiving sector contributes collectively to aid for the cessation of dairy production equivalent to at least 50 % of the actual public expenditure for implementing the scheme. The aid measure excludes undertakings in difficulty, is accessible under the same conditions to all economic operators, does not create a competitive advantage on the basis of its compensatory nature, since compensation is granted only if the quota is abandoned, and does not result under any circumstance in overcompensation of capital losses and future income, since compensation is granted on a degressive basis (during the period under review the average compensation for abandonment was EUR 0,083/litre, while the value of the quota during the same period was EUR 0,10/litre).

- (27) As regards compensation paid following the destruction of milk contaminated by PCBs, the French authorities stress that the decision of the director of the Office for Livestock on introducing an aid measure to compensate operators for their losses is based both on Regulation (EC) No 1998/2006 and Commission Regulation (EC) No 1535/2007 ⁽¹⁾. Regulation (EC) No 1535/2007 has been applied to aid paid to dairies for the destruction of purchased milk that has undergone first-stage processing after collection, while Regulation (EC) No 1535/2007 has been applied to finance the destruction of raw milk of producers making direct sales. In none of the cases has the loss incurred been overcompensated.
- (28) Finally, as regards refunds, the French authorities point out that the ministerial decrees provided for the application of the refund scheme solely in cases where the surplus levy is payable by the producer under the special fiscal charge system (Taxe Fiscale Affectée, TFA) or the levy under Article 78 of Regulation (EC) No 1234/2007. In other words, the refund was applied as part of a penalty system, which cannot be compared to any preferential treatment of operators. If an overrun of the national quota were found, the refund would apply under Article 84(1) of the Regulation. Consequently, while the effects of the system varied for the different categories of operators, it did not distort competition between producers. Despite incurring a higher tax, a producer with the infrastructure and financial means to produce in excess of its quota was not disadvantaged compared to a producer who could not compete with that producer, despite a reduction of the tax rate. According to the French authorities, trade could not be affected either, because the taxation system was tied to a national production volume and, while the reduced rate allowed certain producers to produce more without any financial consequences, that was because other producers produced less. The quantity of milk finally placed on the market remained the same, and this did not affect trade between Member States.
- (29) As regards the Commission's argument that the scope for public authorities to adjust refunds seems to point to discretionary treatment of economic operators that goes beyond the simple management of tax revenue by reference to objective criteria, which, in the Court of Justice's view, may mean that the individual application of a general measure takes on the features of a selective measure ⁽²⁾, the French authorities underline that a general measure covering all producers was introduced starting in the 2009-2010 marketing year in view of the end of the milk quota system and that the refund threshold of 1 % or 2 % is not discriminatory, because it applies to all milk producers on the basis of the quantity in excess of the individual quota, which *de facto* means a reduction of the tax applied. Similarly, a refund was granted to all small producers on grounds of their fragile situation (production costs, sensitivity to economic fluctuations) in order to adapt their contribution to their capacity level and the size of their production structure, in accordance with the progressivity principles applied to tax brackets. These small producers are producers whose individual quota represents a maximum of 55 % of the average individual quota at national level. Taken together, they represent 25 % of producers and less than 20 % of the national quota.
- (30) For all these reasons, and taking account of the transparent and public nature of the refund measure, the implementation rules for which were clearly explained in the end-of-marketing-year decrees that were published in the *Official Journal of the French Republic* and on the websites of decentralised State services, the French authorities consider that the refund measure does not meet the criteria for a State aid measure within the meaning of Article 107(1) TFEU.

⁽¹⁾ Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the sector of agricultural production (OJ L 337, 21.12.2007, p. 35).

⁽²⁾ Judgment of the Court of Justice of 26 September 1996, *France v Commission*, C-241/94, ECLI: EU:C:1996:353.

- (31) Finally, the French authorities would point out that refunds of the special fiscal charge were also granted on a case-by-case basis in the 2006-2007 and 2007-2008 marketing years to breeders dealing with bluetongue.

V. ADDITIONAL OBSERVATIONS FROM THE FRENCH AUTHORITIES

- (32) In the letter sent by email on 18 February 2013 ⁽¹⁾, the French authorities, who were asked to demonstrate compliance with all State aid rules applicable to aid for retirement and aid for the cessation of activities, provided the following clarifications, having regard to their comments submitted after the initiation of the procedure provided for in Article 108(2) TFEU ⁽²⁾ and following the meeting of 12 December 2012.

Aid for the cessation of dairy production on grounds of retirement

- (33) According to the French authorities, aid for the cessation of dairy production on grounds of retirement became available to farmers starting in the 2009-2010 marketing year, after abolition of national early retirement support. The rules for implementing the latter measure were in line with Article 23 of Council Regulation (EC) No 1698/2005 ⁽³⁾ and, in particular, made the granting of aid conditional upon the cessation of all agricultural activities. These rules have also been applied in relation to aid for the cessation of dairy production. In practice, checks on whether all dairy production has ceased are carried out on the spot by inspectors who visit a sample of farms selected on the basis of a risk analysis made by FranceAgriMer. The inspection rate complies with that laid down in Union legislation. The French authorities state that no irregularities have been detected.

Aid for the cessation of dairy production granted as aid for closing of production, processing and marketing capacity

- (34) After pointing out that aid for the cessation of dairy production may be triggered when the producer ceases dairy production partially or fully, pursuant to Article 75(1)(a) of Regulation (EC) No 1234/2007 and point 144(f) of the 2007-2013 Guidelines, and that in most cases (80 to 90 % depending on the marketing year) this aid is for the full cessation of dairy production, the French authorities analysed the measure in the light of the various conditions provided for in point 144 of the 2007-2013 Guidelines concerning aid for closing of capacity.
- (35) As regards the question of knowing whether the aid implemented serves the general interest of a sector suffering from overcapacity (points 144(a) to (e) of the 2007-2013 Guidelines), the French authorities, after drawing attention to the arguments set out in recital 26, would add that the circulars governing aid for the cessation of dairy production underline that part of the recovered quotas revert to the national reserve for redistribution in connection with the ordinary allocation of quotas and that there is a stated desire to redistribute quotas for the benefit of producers with the capacity to produce in excess of their initial reference quantity and thereby contribute to the competitiveness of the dairy sector by supporting its economic restructuring. Furthermore, they reiterate their request to benefit from point 144(e) of the 2007-2013 Guidelines whereby aid schemes applicable to sectors subject to production limits or quotas will be examined case by case.
- (36) As regards the question of knowing whether the beneficiary of the aid offers a counterpart (point 144(f) of the 2007-2013 Guidelines), the French authorities are examining the case of producers who market their milk through deliveries to a collector and that of producers who market their milk directly to consumers, as direct sales.
- (37) In the case of producers who market their milk through deliveries to a collector, a producer ceasing all production undertakes to give up completely and definitively the delivery and marketing of milk and milk products and must provide a certificate of full and definitive cessation within 30 days of the cessation date and

⁽¹⁾ See recital 13.

⁽²⁾ See recital 25.

⁽³⁾ Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

not later than on 31 March of the year $N + 1$ (N being the year when the application for cessation aid was submitted). Such a producer must also undertake to no longer apply for quotas. In the case of partial cessation, the producer commits to proving the closure of an establishment (when he owns several establishments) or showing a reduction in the maximum production volume proportional to the reduction in the reference volume for producers who have only one farm. To that end, the producer must be able to present the quota notification drawn up by the purchaser for the marketing year under way as well as the notification of the new quota for the following marketing year. These checks will remain in place until the abolition of the quotas at the end of 2015. A producer who has applied for compensation for partial cessation of activities may not obtain other compensation for this purpose later on. If he applies for and obtains compensation for full cessation, any quotas already compensated on the basis of partial cessation are taken into account in the calculations.

- (38) Producers who market their milk directly to final consumers must send a declaration of cessation of production for direct sales within 30 days of the cessation date.
- (39) Whatever the scenario, FranceAgriMer verifies that the declarations have been made, not only through administrative checks but also on the spot. If irregularities are found, wrongfully obtained compensation is recovered with interest calculated at the statutory rate, and penalties may be imposed under the Criminal Code.
- (40) As regards the principle whereby only producers who have actually been producing and only production capacities that have actually been in use (point 144(g) of the 2007-2013 Guidelines) may be subject to compensation, the French authorities indicate that aid for the cessation of dairy production may be granted only for producers engaged in production.
- (41) As regards limiting eligibility for aid to undertakings fulfilling compulsory minimum standards and excluding producers for which the production capacity has already closed or for which such closure appears inevitable (points 144(i) and (j) of the 2007-2013 Guidelines), the French authorities would stress that the milk, which is delivered and paid for after being analysed, must comply with the minimum requirements for its use by the dairy. No milk-producing undertaking is in a situation where it is obliged to cease production because of lack of compliance with minimum standards. Furthermore, the French authorities have explained that producers subject to judicial reorganisation or liquidation proceedings are not eligible for the aid, nor are undertakings that, although not subject to such proceedings, meet the other criteria for the definition of an undertaking in difficulty (cash-flow difficulties, a sharply reduced turnover, increasing losses, mounting debt, weakening assets).
- (42) As regards accessibility of the scheme to all economic operators in the sector (point 144(k) of the 2007-2013 Guidelines), the French authorities highlight the transparency and publicity of the measure, which render it accessible to all. The rules for accessing and implementing aid for the cessation of dairy production have been described in the various decrees published at the end of marketing years in the *Official Journal of the French Republic* and in circulars.
- (43) As regards the absence of overcompensation of capital losses and future income (point 144(l) of the 2007-2013 Guidelines), the French authorities point out that the compensation scale is degressive according to volume and time. In addition, an individual reference quantity is set at an average of 20 % of the quantities allocated in the five marketing years preceding the application for aid for the cessation of dairy production, and that part is excluded from the calculation of the compensation. In this scheme, the amount of the compensation does not exceed the value of the quota for France as estimated by the Commission. This argument is supported by figures showing that in 2012 the Commission estimated the value of the French quota at EUR 200/1 000 litres, while the value calculated on the basis of the scales used in France is EUR 90/1 000 litres, which serves as a basis for calculating the compensation.
- (44) As for the counterpart offered by the sector (point 144(m) of the 2007-2013 Guidelines), the French authorities indicate that the aid scheme for the cessation of dairy production is financed principally by revenue from the specific transfer of quotas without land, which was established pursuant to Article 75(1)(e) of Regulation (EC) No 1234/2007 and allows producers to acquire quotas against payment. The rest of the financing comes from public and private funds (the State, local and regional authorities and inter-branch organisations).

- (45) Regarding the application of point 144(n) of the 2007-2013 Guidelines, which stipulates that if a Member State introduces a scheme for closing capacity, it must undertake to grant no aid for creating new production capacities in the sector concerned for the five years following the termination of the capacity closure programme, the French authorities stress that aid for the cessation of dairy production aims at restructuring the sector pursuant to the option offered by Regulation (EC) No 1234/2007, that the quotas released within the aid scheme are available to other producers and that the compatibility of this measure provided for by the Regulation should therefore be interpreted by the Commission.

Other considerations

- (46) In its fax of 15 January 2013, the Commission drew attention to the fact that the tax was paid by producers to purchasers but that the refunds provided for by the decrees establishing the tax were also paid to purchasers. Therefore the Commission asked the French authorities to show that purchasers retroceded to producers the amounts refunded.
- (47) In the letter sent by email on 18 February 2013, the French authorities pointed out that the amounts of possible refunds due to producers who have exceeded their reference quantity are deducted at source and consequently deducted directly from the amount of the tax set at the end of the marketing year, and that this retrocession mechanism deducting from the tax owed by the producer in the case of overruns is one of the obligations of approved purchasers under Articles 65 and 85 of Regulation (EC) No 1234/2007, as amended. In addition, purchasers are required to account for refunds under the Rural and Maritime Fisheries Code.
- (48) As regards the refund threshold ⁽¹⁾, the French authorities confirm that the percentages provided for (1 and 2 %) apply to all producers having exceeded their individual quota, and this at an identical rate throughout the marketing year.
- (49) As for determining the quantities entitling to a refund ⁽²⁾, the French authorities explain that the mechanism was designed to adapt the sector in France to the abolition of quotas, the aim being to maintain at an even level the tax on surpluses by granting a refund to small producers in a fragile situation (15 % of producers, or 10 % of the national quota). According to the French authorities, the mechanism complies with the progressivity principles applied to tax brackets referred to in point 24 of the Commission notice on the application of the State aid rules to measures relating to direct business taxation ⁽³⁾, and a supplementary refund mechanism has been introduced for producers who are not eligible for the refund for 'small producers' but are nonetheless in a fragile situation in terms of the reference quantity held, the aim being to avoid threshold effects.
- (50) In their letter of 20 January 2017, the French authorities specified that the refunds referred to in the second and third indents of recital 16 have been placed under a *de minimis* scheme pursuant to the provisions of Commission Regulation (EU) No 1408/2013 ⁽⁴⁾, since at the time they were granted under the conditions laid down in that Regulation, which is retroactively applicable.
- (51) As regards compensation of losses caused by bluetongue, the French authorities explain that the disease changed the behaviour of certain producers, who, seeing their gross margins fall and facing difficulties related, among other things, to the exit ban for cattle, compensated for the reduced margins by producing in excess of their quotas. In this situation, a measure was introduced for refunding the levy applicable under the national scheme for the special fiscal charge or under Article 84(1)(b) of Regulation (EC) No 1234/2007 in case of overruns of the national quota referred to in Article 78 of that Regulation. Refunds were paid as follows:

- during the 2006-2007 marketing year, 5 % of the quota in prohibited areas and 2,5 % in other restricted areas, where losses were smaller,
- during the 2007-2008 marketing year, a maximum refund of 10 000 litres (equivalent to 4 % of the average quota), regardless of the area.

⁽¹⁾ See recital 29.

⁽²⁾ See recital 16, second and third indents.

⁽³⁾ OJ C 384, 10.12.1998, p. 3.

⁽⁴⁾ 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).

- (52) The French authorities state that, if the national quota is not exceeded, the refund scheme complies with all the provisions of sub-chapter V.B.4 of the 2007-2013 Guidelines and with the conditions listed in Article 10(2) of Commission Regulation (EC) No 1857/2006 ⁽¹⁾. They stress the following, in particular:

- the aid has been granted to farmers (points 131, 132(e) and 137 of the 2007-2013 Guidelines),
- the refund intended to compensate eligible farmers for their losses falls under Article 107(3)(c) TFEU, (point 132(a) of the 2007-2013 Guidelines and Article 10(2) and (3) of Regulation (EC) No 1857/2006,
- the refund measure was established on the basis of Union provisions (Council Directive 2000/75/EC ⁽²⁾) and national provisions (Article L 221-1 of the Rural and Maritime Fisheries Code) in order to act against the disease in question (action programmes), which demonstrates the public authorities' concern over this health issue (point 132(b) of the 2007-2013 Guidelines and Article 10(4) of Regulation (EC) No 1857/2006),
- the objective of the refund is to compensate for the different measures recommended or ordered by the competent authorities (point 132(c) of the 2007-2013 Guidelines) and, in particular, for measures restricting or even prohibiting movements of animals,
- the farmer's behaviour has not increased the risk of disease (point 132(d) of the 2007-2013 Guidelines),
- there is no risk of overcompensation (point 136 of the 2007-2013 Guidelines), since it is the only measure relating to the animal disease and therefore there is no risk of accumulation.

VI. EVALUATION

Scope

- (53) Since it was demonstrated at the time of initiating the procedure pursuant to Article 108(2) TFEU (see recitals 24 and 25 of the initiation decision) that the tax levied was not a specific tax within the meaning of the case-law, this analysis concerns two separate components: the tax refunds referred to in recital 16, on the one hand, and aid for the cessation of dairy production financed until the 2011/2012 marketing year, on the other, bearing in mind that the Commission approved on 15 May 2013 an aid scheme for the cessation of dairy production covering the 2012/2013 and 2013/2014 marketing years ⁽³⁾.
- (54) This analysis does not cover aid for the destruction of milk contaminated by PCBs, because the French authorities have provided also in this respect more details on the exact application of the relevant *de minimis* regulations ⁽⁴⁾ and, since aid complying with the conditions of those regulations is considered, on the basis of those rules, as not constituting State aid within the meaning of Article 107(1) of TFEU, the Commission no longer needs to state a position on them. Nor is compensatory aid related to bluetongue the subject of this analysis.

Existence of aid

- (55) According to Article 107(1) TFEU, '[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market'.
- (56) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State

⁽¹⁾ Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001 (OJ L 358, 16.12.2006, p. 3).

⁽²⁾ Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue (OJ L 327, 22.12.2000, p. 74).

⁽³⁾ State Aid SA.36009 — France, aid for the cessation of dairy production (document C(2013) 2762 final of 15 May 2013).

⁽⁴⁾ See recital 27.

resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States. In the case under review, having regard to the scope of application defined in recitals 53 and 54, this qualification must be assessed at the level of the refunds referred to in recital 16 and of aid for the cessation of dairy production.

- (57) As regards the refunds referred to in the second and third indents of recital 16, the Commission notes that the French authorities have placed them under a *de minimis* scheme in accordance with the provisions of Regulation (EU) No 1408/2013, which is applicable retroactively. This means that they do not constitute State aid within the meaning of Article 107(1) TFEU.
- (58) With respect to the refund referred to in the first indent of recital 16, the Commission, on the basis of information in its possession, considered in connection with the decision initiating the formal investigation procedure that the refund (which was part of the rebates referred to in that decision) contained an aid element, because it was financed by the State, which, by granting the refund, deprived itself of resources. In addition, the refund favoured certain undertakings (the eligible dairy undertakings were relieved from a financial burden imposed on other, taxable, dairy undertakings) and was liable to distort competition and affect trade owing to France's position on the market. The Commission also specified that it was therefore not possible to determine whether the existence and modulation of the refund was justified by the logic of the tax system in place and emphasised that the scope for public authorities to modulate refunds seems to point to discretionary treatment of economic operators that goes beyond the simple management of tax revenue. Finally, there was no indication that the grant equivalent of the rebates could fall under a *de minimis* scheme whereby it could be considered that small amounts of aid do not constitute State aid within the meaning of Article 107(1) TFEU.
- (59) In order to evaluate the relevance of the French authorities' argument that the refund did not constitute preferential treatment of a category of operators, a reference system should be established to verify whether the measure is selective by nature, in other words, whether it favoured certain operators over others who were in an identical factual and legal situation. In the case under review such a system is the one applied to producers who have exceeded their quota (all producers in this category are in an identical factual and legal situation since they are subject to the tax; in contrast, producers who have not exceeded their quota are not in the same factual and legal situation, not only because they remained within the limits of their quota, but also because they were not subject to the tax).
- (60) Considering the information provided by the French authorities, the Commission finds that the refund has been granted without discrimination to all producers who have exceeded their quota and has been modulated from one marketing year to the next and not between eligible producers in the course of the same marketing year. Thus the decree of 17 August 2010 ⁽¹⁾ provided for a refund of the tax on 1 % of the quota for all producers who had exceeded their quota and the decree of 16 August 2011 ⁽²⁾, a refund of the tax on 2 % of the quota, likewise for all producers who had exceeded their quota. The Commission notes further that the system constitutes a penalty, because it applies only in the case of quota overruns. Since this penalty only concerns producers who are in the same factual and legal situation, the refund, applied consistently, does not favour any one of them and therefore is not selective. In other words, the refund does not meet one of the criteria of Article 107(1) TFEU and may therefore be deemed not to constitute State aid, without it being necessary to analyse the other criteria of Article 107(1).
- (61) As for aid for the cessation of dairy production, it confers an advantage to beneficiaries by providing them with resources that their competitors do not have for financing other activities related to agriculture. This advantage is granted through State resources (revenue from the tax and additional resources from public authorities — see recital 11 of the decision initiating the formal investigation procedure) and favours certain undertakings (undertakings in the dairy production sector). According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition ⁽³⁾.

⁽¹⁾ See recital 16.

⁽²⁾ Decree of 16 August 2010 on imposing a tax on milk purchasers and producers who have exceeded their individual delivery quota for the 2010-2011 marketing year (delivery quota decree for end of marketing year).

⁽³⁾ Judgment of the Court of 17 September 1980, Case 730/79, *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

- (62) Pursuant to the case law of the Court of Justice, State aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade ⁽¹⁾. In the case at hand, the beneficiaries of the aid operate on the dairy product market, where intra-EU trade takes place ⁽²⁾. The sector concerned is open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore aid for the cessation of dairy production is liable to distort competition and affect trade between Member States.
- (63) In light of the above, the conditions of Article 107(1) TFEU are fulfilled. It can therefore be concluded that aid for the cessation of milk production constitutes State aid within the meaning of that Article. The aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.
- (64) In the case under review, considering the nature of aid for the cessation of dairy production, the only derogation that could be invoked is the one referred to in Article 107(3)(c) TFEU, whereby aid may be considered compatible with the internal market if it is found to facilitate the development of certain economic activities or certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (65) Since aid for the cessation of dairy production has not been notified to the Commission, the applicability of the derogation provided for in Article 107(3)(c) TFEU must be analysed in the light of the State aid rules applicable when the aid was granted. According to the information provided by the French authorities, aid for the cessation of dairy production took two distinct forms: aid for retirement and aid for the closure of capacity. As indicated in recital 33, aid for the cessation of dairy production granted as aid for retirement took over the role of national early retirement support financed as part of rural development policy starting in the 2009-2010 marketing year. Thus the compatibility criteria to be taken into account for the aid are those laid down in the 2007-2013 Guidelines. As regards aid for the closure of capacity, the table in recital 21 shows that aid was granted for the 2006-2007 marketing year. However, the provisions of the decree governing the aid ⁽³⁾ show that the first decisions to grant aid were most likely taken in 2007, in other words after the starting date for applying the 2007-2013 Guidelines. Therefore it is those guidelines that will also serve as a reference when analysing the compatibility of the aid in question.

Aid for retirement

- (66) It is stated in point 85 of the 2007-2013 Guidelines that the aid must be reserved for primary producers (farmers). Under point 87, the Commission will declare State aid for early retirement compatible with Article 87(3)(c) of the Treaty (now Article 107(3)(c) TFEU) if it fulfils the conditions of Article 23 of Regulation (EC) No 1698/2005. In addition, point 88 of the 2007-2013 Guidelines provides for the permanent and definitive cessation of commercial farming activities.
- (67) In the case under review the Commission finds, in the light of recital 33, that only farmers have received aid for the cessation of dairy production in the form of aid for retirement, that the early retirement arrangements implemented in France have been approved as part of rural development policy, in other words notably because they complied with the provisions of Article 23 of Regulation (EC) No 1698/2005, and that the conditions for its approval, including the cessation of all farming activities, were met at the time of granting aid for the cessation of dairy production.
- (68) On the basis of these elements, the Commission concludes that the provisions of the 2007-2013 Guidelines on aid for early retirement or aid for the cessation of farming activities have been complied with.

⁽¹⁾ See in particular the judgment of the Court of 13 July 1988 in Case 102/87, *French Republic v Commission of the European Communities*, ECLI:EU:C:1988:391.

⁽²⁾ In 2011, which is one of the years during which the aid was paid, France was the second largest milk producer in the Union, with 25,27 million tonnes, on a market where intra-Community trade reached some 14 million tonnes, including both imports and exports.

⁽³⁾ Decree of 28 August 2006 on granting compensation for the full or partial cessation of dairy production and implementing specific arrangements for the transfer of reference quantities of milk in the 2006-2007 marketing year.

Aid for the cessation of activity

(69) The 2007-2013 Guidelines lay down the following relevant compatibility conditions:

- the aid must be in the general interest of the sector concerned (point 144(a)),
- if there is overcapacity, the aid must be part of a programme for restructuring, which has defined objectives and a specific timetable, the period for collecting applications being limited to not more than six months and to a further 12 months for actually closing down (points 144(b) and (c)),
- no aid may be granted which would interfere with the mechanisms of the common organisation of the market in agricultural products, with aid schemes applying to sectors which are subject to production limits or quota being evaluated on a case-by-case basis (point 144(e)),
- there must be a counterpart from the beneficiaries, normally consisting of a definitive and irrevocable decision to scrap or irrevocably close the production facility concerned; this will involve either the complete closure of capacity by the undertaking concerned or — in the case of a company operating more than one production site — the closure of a specific production site; legally binding commitments must be obtained from the beneficiary that the closure is definitive and irreversible, and that the beneficiary will not start the same activity elsewhere; these commitments must also bind any future purchaser of the facility concerned (point 144(f));
- only producers who have actually been producing, and only production capacities that have actually been in constant use over the past five years before closing, may be admitted to capacity closure schemes (point 144(g)),
- only undertakings fulfilling compulsory minimum standards are eligible (point 144(i)),
- it should be possible to exclude aid from being paid for the rescue and restructuring of companies in difficulty (point 144(j)),
- the scheme should be accessible to all economic operators in the sector, under the same conditions (point 144(k)),
- the amount of aid should be strictly limited to compensation for the loss of value of assets, plus an incentive payment which may not exceed 20 % of this value (point 144(l)),
- at least half the costs of these aids should be met by a contribution from the sector (point 144(m)),
- no aid should be granted for creating new production capacities in the sector concerned for the five years following the termination of the capacity closure programme (point 144(n)).

(70) Considering that under point 11 of the 2007-2013 Guidelines, the application of Articles 107, 108 and 109 TFEU to sectors covered by the common organisations of the market is subject to the provisions of the regulations concerned, the first condition examined will be compliance with non-interference with the common organisation of the market.

(71) Article 75 of Regulation (EC) No 1234/2007 provides as follows:

‘1. With a view to successfully restructuring milk production or improving the environment, Member States may, in accordance with detailed rules which they shall lay down taking account of the legitimate interests of the parties concerned:

- (a) grant compensation in one or more annual instalments to producers who undertake to abandon permanently all or part of their milk production and place the individual quotas thus released in the national reserve;
- (b) determine on the basis of objective criteria the conditions subject to which producers may obtain, in return for payment, at the beginning of a 12-month period, the re-allocation by the competent authority or a body designated by that authority of individual quotas released definitively at the end of the preceding 12-month period by other producers in return for compensation in one or more annual instalments equal to the abovementioned payment;

[...]’.

- (72) Since said Article 75 describes precisely the intrinsic mechanisms of aid for the cessation of dairy production implemented by France and leaves it up to Member States to adopt methods for implementing the aid scheme for the cessation of dairy production, the Commission concludes that the scheme does not interfere with the common organisation of the market or with its proper functioning.
- (73) As regards the condition that the aid must be in the interest of the sector, the lack of overcapacity cannot be invoked in the case under review, as shown in recital 74 below, nor is the aid linked to any requirements related to health or environmental protection. However, these are not the only criteria that might be involved (their presence is enough to justify the relevance of the aid, but it does not mean that other criteria could not be taken into account) and, in the case under review, the Commission notes that the arguments put forward by the French authorities ⁽¹⁾ are valid, not only because granting aid effectively opens up production possibilities, which have been redistributed in order to improve the competitiveness of undertakings in a quota scheme but also because the mechanism used corresponds to the one applied in the context of the common organisation of the market in question.
- (74) As regards the existence of a restructuring programme with defined objectives and a specific timetable if there is overcapacity in the sector, the Commission finds that the criteria set have been met for the following reasons:
- the sector is in a situation of overcapacity: the main objective of the milk quota scheme provided for in Regulation (EC) No 1234/2007 (and, before that, Regulation (EC) No 1788/2003) is to reduce the imbalance between supply and demand on the market in question as well as the ensuing structural surpluses and to achieve a better market equilibrium (see recital 36 of Regulation (EC) No 1234/2007 and recital 3 of Regulation (EC) No 1788/2003),
 - the granting of aid for the cessation of dairy production is part of arrangements aiming at restructuring production by allowing farmers wishing to do so to leave the sector and make available to others the quantities they could produce,
 - as for the timetable, the decrees governing aid for the cessation of dairy production provide for a deadline for submitting applications of less than six months and for closing down (which in the case under review corresponds to a capacity closure since the quota is withdrawn from the person in question) of less than 12 months. For example, under the decree of 23 June 2009 governing aid for the cessation of dairy production for the 2009-2010 marketing year, aid applications must be submitted by 31 August 2009 and production ceased by 31 March 2010; the decrees concerning the other marketing years set the same deadlines, which vary depending on the date of adoption of the decree but always within the limits laid down in the 2007-2013 Guidelines.
- (75) As regards the counterpart to be offered, the Commission notes, in the light of recitals 36, 37 and 38 that, in order to obtain aid, the beneficiary must abandon permanently all or part of his milk quota. While point 144(f) indicates that the counterpart normally consists of the complete closure of a holding's capacity, it should be pointed out that in the case under review the partial closure of production capacity was provided for by the quota scheme under Regulation (EC) No 1234/2007. In this context, partial closure may be considered a sufficient counterpart on the beneficiary's part. Furthermore, in this case the abandonment of quotas may be equated to the effective closure of an establishment. As regards the commitments to be made, the eligible applicant is required to submit a certificate attesting the permanent cessation of production and may not apply for any new quotas in future. In the case of partial cessation, the declarations to be submitted to the purchaser from one year to another attest the effective reduction of production. Consequently the counterpart criterion has been met.
- (76) As regards the eligibility criterion related to the practice of the activity and the use of the production capacity over the past five years before the closing of the capacity, the Commission notes, as indicated by the French authorities ⁽²⁾, that the beneficiaries must effectively produce and, thereby, use their quota in order to be eligible for the aid. While the decrees governing aid for the cessation of dairy production contain no reference to the five-year period referred to in point 144(g) of the Guidelines, compliance with this period is evidenced by the methods of calculating the aid itself, because, as indicated in recital 43, an individual reference quantity is set at an average of 20 % of the quantities allocated in the five marketing years preceding the application for aid for the cessation of dairy production, and this demonstrates the existence of production during that period. Therefore the Commission considers that the criterion relating to the length of production has been met. As it is necessary

⁽¹⁾ See recital 35.

⁽²⁾ See recital 40.

to examine case-by-case aid applicable to sectors subject to production limits or quotas, the Commission further notes that the provisions of Regulations (EC) No 1788/2003 and (EC) No 1234/2007 contain no indication of a need to comply with the five-year requirement.

- (77) As regards compliance with standards, the explanations given by the French authorities ⁽¹⁾ provide sufficient evidence that the criterion has been met.
- (78) With regard to the possibility to exclude aid from being paid to companies in difficulty, the Commission points out that the criteria listed in recital 41 correspond to those in the definition of a company in difficulty in points 10(c) and 11 of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty ⁽²⁾ of 2004, applicable at the time of awarding the aid in question. Therefore the Commission considers that the criterion relating to the exclusion of companies in difficulty has been met.
- (79) As regards accessibility of the scheme to all economic operators in the sector, the Commission finds that the only exclusions in the aid scheme for the cessation of dairy production concern producers infringing the applicable legislation, for example on the environment or upgrading to standards. Since all those who comply with the legislation have access to the scheme, the Commission considers that the criterion relating to the general accessibility of the scheme has been met.
- (80) As regards strictly limiting the aid to compensation for the loss of value of assets plus an incentive payment which may not exceed 20 % of the value of the assets, the Commission concludes that there is no overcompensation of the actual value of the quota in the light of the figures cited in recital 43 and, in particular, of the fact that one of the components of the individual quantities representing 20 % of those quantities is automatically excluded from the basis for calculating the aid.
- (81) As regards meeting at least half of the costs by a contribution from the sector, the Commission notes, from the table in recital 21 and the explanations by the French authorities ⁽³⁾, that the aid is largely financed by the specific transfer of quotas without land, where it is the producers who contribute to the system by purchasing quotas. The ratio between the amounts derived from the specific transfer of quotas without land and those from other sources of financing, in particular, show that the specific transfer of quotas without land (in other words, producers) finances more than 50 % of the aid for the cessation of dairy production. Therefore the Commission concludes that the criterion related to meeting at least half of the costs by a contribution from the sector has been met.
- (82) Finally, with regard to the ban on creating new capacities in the sector concerned for the five years following the termination of the capacity closure programme, the Commission notes that this criterion is irrelevant in the case under review, because the aid scheme for the cessation of dairy production does not aim at ensuring a net reduction in production capacity in the dairy sector at the national level but at restructuring production within the framework of the national quota, in accordance with Article 75 of Regulation (EC) No 1234/2007 ⁽⁴⁾.

VII. CONCLUSION

- (83) The Commission notes that the refunds referred to in recital 16 do not involve State aid within the meaning of Article 107(1) TFEU.
- (84) Furthermore, the Commission notes that aid for the cessation of dairy production has been granted in compliance with the 2007-2013 Guidelines and that it may therefore be declared compatible with the internal market under Article 107(3)(c) TFEU despite having been unlawfully implemented in breach of Article 108(3) TFEU.

⁽¹⁾ See recital 41.

⁽²⁾ OJ C 244, 1.10.2004, p. 2. The period of validity of those guidelines, originally to expire on 9 October 2009, was extended first until 9 October 2012 (Commission Communication concerning the prolongation of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 156, 9.7.2009, p. 3)), and then a second time (Commission Communication concerning the prolongation of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty of 1 October 2004 (OJ C 296, 2.10.2012, p. 3)), until they were replaced by new rules applied since 1 August 2014 (Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1)).

⁽³⁾ See recital 44.

⁽⁴⁾ See State aid SA.36009 — France, aid for the cessation of dairy production

HAS ADOPTED THIS DECISION:

Article 1

The refunds relating to the tax established by Article 25 of Law No 2005-1720 of 30 December 2005 for the benefit of the national organisation of agriculture and fisheries products (FranceAgriMer) do not constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union.

Article 2

Aid for the cessation of dairy production financed from the beginning of the 2006/2007 marketing year to the end of the 2011/2012 marketing year constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union. That aid is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union.

Article 3

This decision is addressed to the French Republic.

Done at Brussels, 27 September 2017.

For the Commission

Phil HOGAN

Member of the Commission
