

Paris, 20 January 2025

## **NOTE FROM THE FRENCH AUTHORITIES**

### **Subject: Proposed measures for the European agenda for regulatory and administrative simplification**

According to M. Draghi, the European Union is currently losing 10% of its GDP potential due to regulatory complexity weighing down on businesses, additional burdens due to additional national measures, "gold-plating" of European legislation and divergent implementation requirements and standards between member states.

A powerful means of improving the competitiveness of European businesses is to simplify and accelerate administrative procedures to promote investment projects in the EU, and to create a simple and predictable regulatory environment, particularly for SMEs and mid-sized companies.

It is now crucial to transform the European Commission's announcements into ambitious and effective action to meet this challenge. The French authorities are therefore calling for a new, highly ambitious simplification agenda to be launched at the start of the new term of office, to send a positive signal to European businesses.

Such a simplification agenda must first be based on **a massive regulatory pause**, and therefore on a re-examination of legislation currently under negotiation, stemming from the previous mandate, and which may no longer be in phase with the EU's Strategic Program for 2024-2029. Such a simplification agenda must also be able, where necessary, to consider **the revision of legislation, even recently adopted, where it appears to be ill adapted to the new context of exacerbated international competition and to the uncooperative policies of our main international competitors**. Finally, this simplification agenda must be fully integrated by the European Commission and co-legislators, **with a view to future legislative proposals**, in particular the Clean Industrial Deal, for which the French authorities also put forward detailed proposals in December, setting out this agenda of regulatory relief, simplification and competitiveness.

With this in mind, the French authorities are putting forward the following simplification proposals.

### **1. Creation of the mid-cap category**

This initiative, which could be implemented within the first 100 days, aims to reduce the threshold effects limiting the development of SMEs, by enabling mid-caps to benefit from

certain administrative reliefs currently reserved for SMEs. This is why, by amending Commission Recommendation 2003/361, the French authorities are asking the European Commission to create a new statistical category dedicated to mid-caps, in addition to the existing categories (micro, small and medium-sized enterprises).

This mid-cap category would be determined according to the following criteria:

- Workforce: between 250 and 1,500 employees.
- Financial criteria: sales not exceeding 1.5 billion euros or balance sheet total not exceeding 2 billion euros.
- Small mid-caps could thus be positioned above current SMEs and below large companies, providing them with greater flexibility to boost their competitiveness without subjecting them to the same constraints as large companies. The proposed threshold would reflect a fairly large portion of growing companies.
- The definition of this category should be based on an in-depth analysis by the Commission, based on economic and statistical criteria, but also a study of the sectoral distribution of companies to take into account industrial and geographical specificities, as well as consultations with stakeholders, and an in-depth assessment of the specific needs of these companies in the growth phase.

Once Recommendation 2003/361 has been amended, an “omnibus” legislation could rapidly be adopted to extend certain exemptions and simplifications applicable to SMEs to mid-caps, thereby strengthening the competitiveness of European companies. These exemptions and simplifications have yet to be defined as part of a review exercise of current legislation. The new mid-cap category could also be used by legislators for future legislation where provisions more suited to companies according to their size would be appropriate.

## 2. Modification of directive 2024/1760 on corporate sustainability due diligence (CS3D)

**Directive 2024/1760 of June 13, 2024 on corporate sustainability due diligence, known as “CS3D”, establishes a due diligence requirement for companies to identify, prevent, mitigate and remedy negative impacts on sustainability** (human and environmental rights) resulting from their activities, those of their subsidiaries and those of their business partners. France supported the drafting of this directive, which aims to ensure that companies make a greater contribution to sustainability objectives, and helps to avoid a fragmentation of due diligence legislation across the Union.

The new CS3D obligations do, however, entail a number of potential risks identified by companies and likely to affect their competitiveness, including in relation to non-European companies not subject to these same standards. As such, in the new context of a diagnosis of loss of competitiveness vis-à-vis our main international competitors and in particular in the absence of a level playing field, drawn up by the report on the future of European competitiveness or Draghi report, **the French authorities are in favour of an indefinite postponement of the entry into force of the Directive.**

Such a postponement must allow for necessary time to improve the Directive, incorporating the following adjustments:

1. As a first step, within the first 100 days, the guidelines to be prepared by the European Commission pursuant to Articles 18 and 19 of the Directive should in all areas seek to faithfully comply with the intention of the legislator as set out in recital 19: 'the main obligations in this Directive should be obligations of means'. This approach would enshrine good due diligence practices as a safeguard against the risk of increased litigation resulting from the Directive. In particular, the specific guidelines in Article 22 on climate transition plans must ensure full consistency between the expectations of the Directive in terms of the content of the plan and the provisions of the CSRD (see below).
2. In addition, the Commission should very quickly begin considering **possible adjustments** to the current CS3D directive in order to (i) determine thresholds in line with companies' capacities to implement due diligence, i.e. targeting only those subject to the directive from the first year of its application once transposed: European companies with over 5,000 employees and sales of over €1.5 billion worldwide, and non-European companies with sales of over €1.5 billion on the European market; (ii) favour the application of due diligence at group level, in order to centralize risk identification and management, rather than duplicating efforts at the level of each subsidiary; (iii) ensure harmonization of supervisory practices within the European Union, eventually through the creation of a single European supervisory authority, which would be explicitly endowed with a support and mediation role; (iv) delete (1) of article 36 concerning the report on the need to set additional requirements adapted to regulated financial companies, in order to prevent the eventual creation of specific obligations for these regulated financial companies, when they should be considered by this directive in the same way as companies in other sectors.

### 3. Modification of the CSRD directive (*Corporate sustainability directive 2022/2464*)

The Corporate Sustainability Reporting Directive (EU) 2022/2464 is part of the European Green Deal. It is a useful management tool for European companies, as well as a means of improving decision-making for financial institutions, business partners and consumers. From the beginning, the French authorities have supported the conception of this tool as part of the transition to a more sustainable economy, while ensuring its operability for companies. The directive was transposed into French law in December 2023.

However, the proportionality of the framework is no longer ensured in light of the very substantial competitiveness challenges that European companies are currently facing. **The French authorities are therefore in favour of the urgent adoption of the following simplifications.**

Firstly, the French authorities would like to see reporting burdens significantly lightened, by drastically reducing the number of indicators and focusing them on climate objectives.

The French authorities also propose that Accounting Directive (EU) 2013/34 be amended to permanently allow intermediate-sized companies, as defined in Part 1 of this note, to apply the European Sustainability Reporting Standards (ESRS) provided for SMEs listed under Article 29 quarter of the CSRD. This presupposes rapid adoption of the delegated act on ESRS

applicable to listed SMEs, whose technical advice prepared by the European Financial Reporting Advisory Group (EFRAAG) still needs to be significantly simplified, as close as possible to the published voluntary standard for unlisted SMEs, which has a significantly reduced number of data points compared to what EFRAAG is currently proposing.

**The French authorities would also like to see the directive introduce a principle of capping reporting in the subcontracting chain of large companies, which, according to such a principle, could not require their subcontractors to comply with obligations exceeding the simplified reporting obligations applicable to listed SMEs.**

Companies face significant audit costs for their sustainability statements. In order to increase transparency on such costs, **the Accounting Directive should be amended to include the fees for auditing sustainability information in the annex to the company accounts.**

Finally, the Commission could usefully take immediate action via, for example, a communication to clarify that transition plans as defined by ESRS E1-1 do not require the setting of GHG emission reduction targets aligned with the Paris Agreement, but do require **a comparison of the company's targets with a trajectory considered compatible with the Paris Agreement.**

Finally, the French authorities would like work on possible sectoral standards not to be taken further, since uniform application of the Directive must be preserved, without adding new incremental obligations to certain sectors.

In addition to the above-mentioned improvements, and as a subsidiary option, the French authorities are also open to **a two-year postponement of the entry into force of the provisions of the Directive.** If such a postponement were to be decided, it would have to be properly coordinated with the provisions already applicable at present for those Member States that have already transposed the directive, such as France through Order no. 2023-1142 of 6 December 2023 and Decree no. 2023-1394 of 30 December 2023. This linkage must be defined technically with the utmost care, firstly **by targeting SMEs and mid-caps in particular, which are not yet subject to reporting obligations in 2025,** and secondly **by preventing any risk of disincentives to listing on regulated markets.**

#### **4. Regulation 2020/852 Taxonomy**

The European green taxonomy is an important tool for measuring the sustainability of European businesses and an incentive to invest in aligned activities. However, the effectiveness and adoption of the taxonomy by economic actors face a number of technical difficulties, which have become apparent in practice and could be resolved by very targeted amendments to the delegated acts. In this respect, the green asset ratio for credit institutions should be reviewed to ensure harmonization of the numerator and denominator, as the current methodology makes the ratio irrelevant since it depends to a large extent on the banks' business model, and could have negative consequences for SME financing.

## 5. Reduction of reporting burdens under Regulation 2024/1244 on the reporting of environmental data for industrial installations and the creation of an Industrial Emissions Portal (IEP)

In order to simplify the administrative burden, the French authorities ask the Commission to propose within the first 100 days a targeted amendment to Regulation 2024/1244 'IEP' and to adapt accordingly the implementing act provided for under Directive 2024/1785 on industrial emissions (IED) in order to reduce the reporting burdens that will be specified in the implementing decision and in the 'IEP' Regulation. This simplification would affect 8,500 companies.

The IED Directive was revised in 2024. It reinforces the information that will be made available to the public and its participation (Article 24) and considerably increases the data which Member States must communicate (Article 72) to the Commission, data which the Member State must request from manufacturers and whose quality, completeness, consistency and credibility it must check.

The details and list of such data to be communicated are not directly mentioned in the revised 'IED' Directive but are to be specified in a forthcoming implementing decision, as well as in the 'IEP' Regulation which was recast at the same time as the IED Directive.

This regulation provides for the mandatory transmission of data on the use of water, energy, raw materials, contextual data (production volume and number of operating hours), and the obligation to report them at the level of the installation and not of the establishment. Some of these data are confidential and not all are considered to be environmental information.

The aim is to dispense with the transmission of data and to allow declarations to be made, in general, at the level of the establishment rather than that of the installation.

## 6. Simplification of standards applicable to the banking sector

### Basel III

The new prudential requirements for market risk (Fundamental Review of the Trading Book - FRTB) are a key issue for banks. A one-year deferral has just been confirmed by a delegated act of the European Commission, but it is already necessary to decide on a further one-year deferral to allow sufficient time to ensure a level playing field with the United Kingdom (which has again postponed the entry into force of its transposition) and the United States (where the new administration is likely to call transposition into question).

### Improvement of the normative process

In the sphere of banking, the Commission's delegated acts (Regulatory Technical Standards or 'RTS', Implementing Technical Standards or 'ITS') as well as guidelines, guides and questions and answers are useful for supplementing and clarifying legislative texts through technical and/or provisional provisions. In recent years, however, these standards have become

problematic in terms of their number, which has increased significantly to the detriment of legal stability, and in terms of their scope, which in some cases includes measures with significant economic effects without any explicit political arbitration having been undertaken. For example, a report by the European Banking Authority (EBA) on the valuation of capital in banks' solvency ratios was published in June 2024 without a legislative mandate, even though this report could lead to an increase in the capital requirements applicable to banks.

The French authorities therefore call on the European Commission to mandate the European Banking Authority to identify the technical standards, texts and procedures that could be abolished or alleviated in the short term, with a view to simplifying the framework. This mandate could be accompanied by a request to improve the ex-ante impact assessments published by the EBA, in particular to include an assessment of the expected impact on the financing of the economy and the competitiveness of the European banking sector, and to compare these with ex-post assessments to measure the economic consequences of a new standard.

The French authorities also recommend introducing additional supervisory powers and safeguards in relation to the EBA's actions. For example, consideration could be given to granting the European Commission and the Council the power to amend or suspend a new standard, or to make public consultations prior to publication more systematic.

## 7. Alleviation and shortening of the time-limits for State aid procedures

The French authorities believe that the State aid framework can be simplified and adjusted in two stages.

Firstly, the French authorities are in favour of implementing a new temporary framework for State aid by the 2nd half of 2025, with a proposal to be put forward within the first 100 days of the new European Commission. They are also in favour of revising the rules relating to energy and the environment (General Block Exemption Regulation - GBER - and guidelines for energy and the environment under the future Clean Industrial Deal).

Indeed, the French authorities are in favour of introducing a temporary framework, in line with the recommendations of the Draghi report, which could:

- Take up some of the possibilities offered by sections 2.5 (subject to the inclusion of flexibilities regarding tendering procedures) and 2.6 of the TCTF (accelerated support for large decarbonisation projects) and 2.8 (production of essential equipment – with a definition to be expanded – **for the green transition) to promote a Net-Zero economy. It may also make the matching clause (provided for in Article 2.8 recital 86) of the Temporary Crisis and Transition Framework permanent, provided that the associated conditions allow Member States to make effective use of this clause in the economic context of the coming years.**
- Enable, in a new section of the framework, support for competitiveness projects for the EU's strategic autonomy: modernisation of existing production capacities and new production capacities in the sectors covered by the extended Versailles agenda (in

particular chemistry, agri-food, health) as well as the development of decarbonised substitute products.

This new section of the framework could therefore: (i) target strategic sectors for the EU; (ii) be limited to a certain amount per company and per project; (iii) be accompanied by conditions designed to strengthen the implementation of EU policies, e.g. environmental and/or innovation counterparts (set of pioneering plants in Europe or process and organisational innovations) and/or commitments such as an obligation to give priority to supplying European value chains in times of crisis and to give priority to sourcing in Europe for critical components or components for which there is a high level of dependence on certain third countries; (iv) encourage the use of European funds or certain forms of non-subsidised aid (guarantees, loans, repayable advances, capital investment on more favourable terms than the market whose gross subsidy equivalent complies with aid intensities) through the application of more favourable aid intensity rates. In particular, the French authorities are in favour of shifting State aid towards securing strategic supplies for value chains. These supplies are indeed essential in the event of a crisis. In this respect, they consider interesting the possibility of a Service of General Economic Interest mentioned by the Commission in its Communication on critical medicines: work must start now to ensure its effective application by Member States and its proper coordination with aid for competitiveness projects for the EU's strategic autonomy.

As part of this first step, it will also be useful to revise the guidelines on State aid for climate, environmental protection and energy (CEEAG) as early as 2025. A review of these guidelines - which are proving to be too complex and restrictive - should be carried out in parallel. Similarly, the French authorities support the revision and streamlining of the related provisions of the GBER to make it an instrument better suited to supporting the green transition.

In addition, the French authorities believe that the Commission could continue to simplify State aid rules by including other sectors in the GBER, such as press and video games.

**On the other hand, the French authorities are not in favour of extending aid for SMEs to a new category of intermediate-sized enterprises (mid-caps) because they believe that SMEs face very specific market failures that mid-caps do not necessarily encounter. The only possible simplification would be to exempt the possibilities offered by the guidelines for access to risk financing for mid-caps without making any substantive changes.**

**With regard to IPCEIs ((Projects of Common European Interest),** the French authorities strongly support the governance of the European industrial strategy set up under the IPCEI forum, as it allows solutions to be co-engineered on the basis of a work plan that meets deadlines and objectives. The participation of several Commission Directorates-General is appreciated and promotes a balanced approach that meets common European objectives.

However, France proposes to make some additional adjustments to the tool as early as 2025:

- An adjustment to the European Commission Communication 2014/C188/02 updated in 2021 (2021/C528/10) on IPCEIs would be necessary to foster innovation. This communication states that *'Research & Development & Innovation ('R&D&I') projects*

*must be of a major innovative nature or constitute an important added value in terms of R&D&I in the light of the state of the art in the sector concerned'*, the state of the art being assessed at global level. However, the state of the art used to assess innovation should be carried out at European level, which would make it easier for our companies to catch up when Europe is not at the technological forefront.

- Effective taking into account of aid provided by third countries, as provided for in point 38 of the 2021 Communication, on the lines of the alignment clause in Article 2.8 of recital (86) of the TCTF.

The French authorities would also be in favour of revising the powers given by the Council to the European Commission regarding the exemption of State aid (Regulation 2018/1911) as of 2025 to enable the Commission to include in the revision of Regulation (EU) No 651/2014, a genuine exemption of individual projects by IPCEI direct partners. The effect of this amendment would be to simplify matters further by ensuring a quorum of four Member States, factoring in the exemptions, and to encourage the adoption of IPCEIs within a period of no more than four months between pre-notification and the decision, so as to be compatible with the pace of development of the industry.

Secondly, in addition to the measures proposed for the establishment of the new European Commission within 100 days, the French authorities consider that improvements could be made with regard to the relationship between the rules on State aid (GBER and other European texts on State aid) and those on European funds, in particular:

- Making progress in aligning eligibility conditions to simplify cross-use;
- Realigning the timetables for the implementation of European funds and State aid. The French authorities would like the texts governing State aid on the one hand and European funding on the other (whether or not they are classified as State aid with regard to the application of Article 107.1 of the TFEU) to follow the same revision timetable in order to allow consistent implementation of the allocation of funding (particularly in terms of funding complementarities and cumulation). At present, the timetables are out of sync, which makes it impossible to optimise the funding rules and makes it difficult to implement the texts jointly;
- Aligning the eligible aid intensity rates (GBER) with the co-financing rates authorised by the regulations relating to European funds;
- Aligning the modalities for using simplified cost options (SCOs) with the framework of European funds. For the GBER, as for the other exemption regulations, France is in favour of a wider use of SCOs, for example by means of a standard scale of unit costs or lump sums. This would reduce the administrative burden for both aid recipients and granting authorities;
- Ensuring consistency between the rules on document retention periods in the appropriate regulatory vectors.

In this second phase, the French authorities are in favour of rigorous monitoring but consider that it should be better targeted. The French authorities consider that the evaluation of



exempted aid schemes is virtuous because it makes it possible to measure their impact and improve them. However, they would like these assessments to be carried out more effectively (particularly in terms of timing) in order to provide a genuine measure of the impact of the aid.

#### **8. Introduce the possibility of using simplified costs in aid schemes exempted on the basis of the Agricultural and Forestry Exemption Regulation (AFER)**

The French authorities request that the use of simplified costs, scales and lump sums be allowed in State aid schemes exempted under the AFER. The use of simplified costs would considerably simplify the assembly of aid applications and the preparation of payment application files.

#### **9. Securitisation**

Following on from the consultation undertaken by the European Commission on relaunching the European securitisation market, the French authorities consider that several substantial simplification measures could be implemented with regard to the framework applicable to these transactions.

The so-called 'due diligence' requirements applicable to investors in securitisation transactions are currently too onerous and prescriptive. Adopting a principle-based approach would limit the complexity for investors, by simply requiring them to properly assess the risks to which they are exposed. The extent of the due diligence requirements could also be adapted to the characteristics of the underlying transaction, particularly in the case of simple, transparent and standardised (STS) transactions.

Moreover, the reporting applicable to these transactions is currently too detailed. It could be substantially simplified, centred on the real needs of regulators, to move towards reporting that is more proportionate to the characteristics of the underlying assets, for example by reducing its granularity in the case of securitisations of highly homogenous receivables.

The French authorities will continue to support these areas of simplification of Regulation 2017/2402 creating a general framework for securitisation, as they did in the context of the targeted consultation organised by the European Commission, which ended on 4 December 2024.

These reforms are part of the set of changes needed to ensure an effective revival of the securitisation market, which is essential to the construction of the Capital Markets Union and to the financing of the economy, including that of small and medium-sized enterprises. They could form part of the simplification package for the first 100 days or, failing that, be incorporated into the complete securitisation package scheduled for the end of the first half of 2025.

#### **10. Stabilising the regulatory environment**

## Financial information and data access (FIDA)

Despite the potential benefits that open finance can offer users, the FIDA regulation currently being negotiated by the Council and Parliament raises major concerns about its impact on the European financial sector. The implementation costs for businesses could far exceed the initial estimates in the Commission's impact assessment, with no clearly established use cases to justify this significant expenditure. Furthermore, the massive sharing of financial data raises crucial questions about the protection of personal data and the digital sovereignty of the European Union.

In this context, we call for a thorough reassessment of the impact of FIDA on the European economy in the forthcoming trialogues and for the text to be adjusted accordingly, if not abandoned altogether. It is crucial to ensure that this regulation does not harm the competitiveness of the European financial sector and that the expected benefits fully justify the costs and risks identified. We also wish to highlight the inconsistencies between the simplification ambitions stated by the European Commission and the complexity that this text would introduce.

## The retail investment strategy

This strategy seems to us to meet the objective, set out in the Union for Capital Markets (UCM) roadmap, of increasing the participation of retail investors in financial markets. However, the negotiations have led to a significant increase in the complexity of the text, distancing it from its initial objective, particularly at the expense of the fluidity and simplicity of the customer journey. We consider it imperative not to hasten the conclusion of the text as it stands, and to refine and simplify the provisions in order to make them applicable.

The French authorities will support two areas of simplification, downstream and upstream.

Downstream, our priority is to avoid complicating the customer journey and to ensure informed proximity support, in particular by ensuring that the suitability test imposed on customers in distribution without advice is not further complicated, and that the best interest test does not become excessively complex for financial advisers, by ensuring that the diversity of situations and products is adequately taken into account.

Upstream, we support the search for simplification without relieving industry of responsibility for the cost structure of its products, by paying particular attention to the design of the value-for-money ratio and the supervision of benchmarks, and by simplifying the inducement test to avoid its inapplicability.

## Late payment Regulation

The adoption of this text would pose a risk to many companies, particularly VSEs and SMEs, in terms of their activity and long-term survival, particularly due to the seasonal nature of their business or the structure of their trade. In addition, 15 Member States (Germany, Finland, Austria, Romania, Latvia, Ireland, the Czech Republic, Lithuania, Sweden, Slovakia, Slovenia, Malta, Portugal, Bulgaria and Estonia) have already come out in favour of the Commission

withdrawing the text altogether. A non-paper has been drawn up by Germany and supported by Austria, the Czech Republic, Estonia, Latvia, Lithuania, Portugal, Slovakia and Sweden to oppose the proposal, which is deemed to be unbalanced because it is unilaterally focused on the interests of creditors rather than SMEs, and overly prescriptive in terms of contractual relations. The cost of creating a supervisory authority and the substitution of a regulation for a directive are also among the criticisms directed at this text. France is also in favour of withdrawing this text.

## 11. Directive 2015/1535 Transparency

The French authorities propose modernising the notification system provided for in Directive 2015/1535, which establishes a procedure for the provision of information on technical rules and rules on information society services.

The notification procedure established by Directive (EU) 2015/1535 is a tool for information, prevention and dialogue in the field of technical rules on information society products and services. France attaches great importance to this, as it is an essential instrument for the proper functioning of the single market. Under this procedure, a standstill period of several months must be observed before a notified draft text can be adopted. However, this requirement can give rise to difficulties, particularly in terms of administrative burden and slowness for Member States. Problems of coordination with their national legislative processes may also arise. A desirable development would be to adapt the standstill period to accommodate the technological advances in information processing offered by information society services since the creation of this tool, without jeopardizing the proper functioning of the single market.

At the last committees of national contact points for directive 2015/1535 organised by the Commission, several Member States expressed their wish to reduce the standstill period. This issue is still under discussion within the Commission. Modifying the standstill period will require a revision of directive 2015/1535.

## 12. REACH Regulation 1907/2006

**The French authorities support the Commission's objective of proposing a revision of the REACH regulation.** This revision will have to respond to a dual concern, echoing the expectations of European citizens: strengthening the protection of health and the environment and fostering the competitiveness of European industry, by simplifying procedures and sending clear signals to economic actors in favour of investment and innovation. The REACH regulation affects around 18,000 companies to date.

**This revision must be a priority for the next mandate but, to be relevant, it must not be carried out as a matter of urgency, nor must it incorporate the cross-cutting simplification regulation that will be proposed within the first 100 days.** It must be the subject of a dedicated and specific proposal from the Commission, negotiated in the relevant fora and subject to in-depth consultation to meet the expectations of stakeholders. In particular, an impact assessment seems necessary to take into account the current economic context. The French authorities

will submit proposals on the content of this revision as part of the *ad hoc* consultations on this revision.

### 13. Harmonisation of the derogation provisions for the outermost regions for biomass installations between the RED Directive and the ETS Directive

**The proposed measure consists of harmonising the provisions on sustainability criteria for bioenergy in the outermost regions (ORs) between Directive 2023/2413 on renewable energy, known as RED, and Directive 2023/959 establishing a scheme for greenhouse gas emission allowance trading within the European Union, known as ETS.**

While the RED Directive provides for the possibility for Member States to take derogating measures for the ORs as regards the sustainability criteria that bioenergy must meet, neither the ETS Directive nor the ETS implementing regulation known as the MRR Regulation (2018/2066) provide for specific treatment for biomass in the ORs.

**Economic actors are thus faced with a non-harmonised regulatory framework, which is a source of complexity and illegibility for their operations.** Thus, while the RED Directive allows Member States to subject them to criteria adapted to the specific socio-economic and technical particularities of the ORs, the ETS requires operators to pay allowances if they do not meet the ordinary law sustainability criteria set by the RED Directive, which are not adapted to the specific characteristics of these territories, thus subjecting the production of electricity from biomass to an additional financial constraint.

However, only the criterion of reducing emissions poses real difficulties in the ORs, since plant yields there are systematically lower than those observed on the mainland because of (i) the very limited opportunities for exploiting the heat produced; (ii) higher temperatures, which penalise yields; and (iii) severe constraints on balancing supply and demand in non-interconnected areas.

The French authorities therefore propose to adapt the emission reduction criteria in the ETS to the specific characteristics of the ORs, as is already the case for the RED Directive, thus making it possible to achieve a coherent framework between the RED Directive and the ETS Directive for the criteria to be met to ensure the sustainability of biomass.

**A first approach would be to amend the so-called MRR implementing regulation** by introducing specific provisions in Article 38 on the emission reduction criterion to be met by biomass in the ORs. The French authorities sent the Commission a note detailing this opportunity on 19 August 2024.

**A second approach consists of directly amending the ETS Directive**, by inserting an article stating that the derogations provided for in Article 29(13) of the RED Directive for the ORs are also valid under the ETS for the emission reduction criterion, possibly by setting a minimum rate below which these derogations could not go, as proposed by the French authorities in their note. **The French authorities are prepared to work with the Commission on this harmonisation.**

#### 14. Harmonisation of the concept of 'waste'

**The French authorities call on the Commission to promote harmonisation of waste classification within the European Union** and ask it to speed up work at European level to define harmonised criteria for the removal of waste status. These measures should help to promote the emergence of competitive European recycling industries while ensuring our sovereignty.

The French authorities believe that this measure should form part of the more global framework of the future European Circular economy Act rather than the transversal simplification regulation adopted in the first 100 days.

#### 15. Simplification and harmonisation of reporting requirements and tools in the context of the regulatory proposals currently being finalised on end-of-life vehicles and microplastic pollution

The French authorities call on the Commission to ensure that some of the provisions of the draft regulation on end-of-life vehicles (ELV), which was the subject of a general approach at the Environment Council on 17 December, are simplified and that they are consistent and properly coordinated, particularly as regards definitions, with the provisions of the relevant European legislation, such as the Ecodesign Regulation and the Batteries Regulation.

Furthermore, as part of the forthcoming work on the proposal for a regulation on the prevention of plastic pellet losses in order to reduce microplastic pollution, the French authorities invite the Commission, with a view to simplification and harmonisation, to promote the introduction of a European register to collect all the information on economic operators and transporters in the EU. All possible synergies with the register to be set up by ECHA for the application of REACH, in which the same economic operators will declare their pellet loss estimates, should be implemented.

#### 16. European statute for young innovative companies and examination of the advisability of a 28th regime

**The French authorities are in favour of reflecting on the creation of a European statute for young innovative companies.** Indeed, the difficulties these companies have in expanding within the European market are a well-identified weakness of our innovation ecosystem, which stems in part from regulatory fragmentation, as outlined in the Draghi report.

In particular, this system could enable these companies to register only once at European level and to benefit from the standardisation of certain regulations. Specifically, it would be appropriate to standardise the rules facilitating access to financing. Such a measure was announced by the President of the European Commission and confirmed by Commissioner E. Zaharieva at her hearing as being part of a "European Innovation Act". The desire to create this statute could, if necessary, be confirmed and it could be one of the cornerstones of the "EU start-up and scale-up strategy" that has been announced. The French authorities consider that it is important for eligibility for this status to take into account the maturity and prospects of the company: (i) economic dynamism stems mainly from young companies and these are the

ones most in need of growth (ii) innovative companies produce more externalities across the economy as a whole and have specific financing needs.

In addition to a European statute for young innovative companies, the possibility of creating a 28th company law regime, as proposed by E. Letta, could be explored. It would be open to all European companies intending to carry out cross-border operations in Europe.

France sees this 28th regime as an opportunity to make the internal market for services a reality by providing the companies concerned with a harmonised set of rights throughout the European Union. For example, having a single legal status would eliminate the need to create a new legal entity each time an office is opened in a new Member State. When raising funds, applying for grants or responding to calls for tenders, it would eliminate the need for documents to be translated into each language requested or the mandatory verification of the legal value of documents by a sworn notary.

The French authorities would like the benefit of this 28th scheme not to be restricted solely to young innovative companies. Such a restriction would require companies that have adopted this scheme, and exceed a certain size, to change their corporate form, in favour of a purely national scheme, thereby jeopardizing the advantages gained from a uniform scheme. It would also run the risk of introducing confusion between the legal framework for company activity, which pursues fiscal, social and economic objectives, and company law, whose function is to provide a structuring legal framework for the governance of companies, and which does not lend itself well to distinctions inspired by economic logic.

Moreover, this system must be ambitious and coherent on a European scale, particularly in terms of market access, financing, company law, insolvency law and administrative procedures.

## **17. Simplifying regulations in the agricultural sector**

In the current agricultural context, this simplification exercise is seen as a major opportunity to adopt a new simplification package after the one adopted in spring 2024. The French authorities thank the Commission for the simplifications for farmers decided in spring 2024. They call for this simplification work to continue in order to lighten the administrative burden, secure agricultural holdings in their activity and facilitate the transfer of holdings. The requests for simplification are presented by topic, and include both new proposals and proposals already put forward as part of the February 2024 simplification exercise. These various proposals are detailed in the attached table.

### **a. Common Agricultural Policy (CAP) measures**

#### **i. Cross-compliance of CAP subsidies**

The responses provided in spring 2024 addressed a number of concerns expressed by farmers, and the French authorities would like to thank the Commission for the important work already carried out. However, they believe that this work should be continued. Obligations should be refocused on requirements strictly linked to the main objectives pursued by each GAEC (good agricultural and environmental condition), either by strictly applying the main objective of each GAEC, or by amending the basic act to clarify them and simplify redundant requirements

between certain GAEC. The overall objective is to respond to criticism of the “stacking of standards” and to make the objectives more understandable.

**New measures proposed:**

GAEC 1 (maintenance of permanent grassland): the French authorities would like to allow the reference ratio to be adjusted several times during the programming period in the event of the abandonment of livestock farming (introduced by regulation 2024/1235). Indeed, the periodicity limited to a single adjustment during the programming period may prove insufficient in view of the decline in livestock farming observed in certain regions, in a context of decapitalisation in livestock farming suffered by farmers.

GAEC 2 (wetlands): the French authorities propose to transform GAEC 2 into a statutory management requirement (SMR) when the national framework already provides for wetland protection measures. This proposal would be a simplification measure and would increase the readability of cross-compliance for farmers, by aligning the requirements applicable under the CAP with those set out in national environmental regulations in application of the Water Framework Directive.

**ii. Controls – Clearance of expenditure:**

The French authorities would point out that they had already put forward a number of proposals aimed at simplifying controls and responding to farmers' recurrent requests for better organisation of controls, placing less pressure on individual farms (single control principle), while maintaining adequate verification of control points:

- Adapt the selection rules for inspections so that they take into account the principle of only one inspection per year and per agricultural holding under CAP legislation;
- Clarify the fact that, if a control point cannot be checked on the day of the on-site inspection, it is not necessary to return to the same operator at another time of the year, provided that, overall, all the control points are checked at the appropriate time for a sufficient proportion of the sample;
- Remove checks on operations: the French authorities call for the abolition of ‘ex-post’ checks under Article 76 of Regulation (EU) 2021/2116, the scope of which was drastically reduced with the reform of the CAP (in the long term they will only apply to the program of options specifically relating to remoteness and insularity (POSEI) and to crisis aid under the common market organisation). Maintaining this checking system, which currently reveals very few non-compliances (as a % of amounts checked), raises the question of the cost/benefit ratio of maintaining these specific checks.

**New measures proposed:**

Clearance of expenditure under the national strategic plan: the French authorities request a return to the simplification objective initially pursued at the time of the CAP reform with the implementation of the performance clearance. Three developments could make it possible to meet this objective:

- Define the notion of “serious failures of governance systems” giving rise to financial



corrections in the context of conformity clearance, on the basis of feedback from the start of the programming period.

- Remove the annual performance clearance for non-area measures for sustainable development, known as non-IACS (outside the Integrated Administration and Control System): given the nature and diversity of non-IACS measures, it is extremely difficult to plan unit amounts and the comparison with unit amounts paid can hardly be considered a relevant indicator of CAP performance.
- Make operational the flexibility permitted by the Regulation (Article 40(2) of Regulation 2021/2116), which makes justifications mandatory only in the event of a discrepancy of more than 50% in the annual clearance of performance. This proposal is already being examined as part of the revision of Delegated Regulation (EU) 2022/127. France made proposals by NFA in October.

Area monitoring (AMS) quality control: the French authorities ask that no annual AMS quality control be required for criteria or checks that have already been validated by a previous quality control, provided that the AMS is based on an automated methodology. The checks carried out as part of the quality control should not be audited either (which would otherwise amount to duplicating the control). Quality control is a complex and time-consuming exercise, which also has a major impact on the entire on-site control system. It is therefore proposed that consideration be given to technical adjustments on the basis of the experience gained during the first two years of implementation. This request is widely shared by the other Member States and has already been discussed at European level.

The French authorities also ask that the tiles containing the parcels to be analysed as part of IACS quality control be better distributed throughout the Member State's territory. The 2024 exercise showed that a large number of plots targeted for quality control were concentrated in certain administrative departments and sometimes concerned holdings that had already been inspected for the same reason in 2023. This highly concentrated distribution of the sample of plots is causing organisational problems in some departments and seems unfair for some beneficiaries who are being inspected several times. The French authorities therefore request that the Member States be involved in drawing up the sample of parcels or, at the very least, be informed of the areas in which checks are to be carried out prior to their transmission, together with the number of parcels concerned. This close collaboration between the Commission and the Member States will facilitate the smooth preparation of quality inspection.

### iii. Risk management measures

In the context of climate change, France has carried out a reform of risk management with the aim of improving risk prevention and increasing stakeholder accountability. In this respect, crop insurance appears to be a tool that should be further developed. The proposals set out in the annex are designed to remove some of the obstacles currently encountered in the development of crop insurance. The most eagerly anticipated by professionals is the following:

Compensation for crop losses - Calculation of the history of production reference: the French authorities ask that the history of production be calculated as a **four-year average or an Olympic eight-year average**. The aim is to take better account of the inter-annual variability of certain crops (e.g. arboriculture) and the increasing variability of yields as a result



of climate change. Above all, the proposal smoothens out yield history, avoiding excessive inter-annual variations.

#### **iv. Other topics related to the implementation of the NSP**

In addition to the measures already listed, France had put forward a number of proposals to facilitate the implementation of several NSP measures, including aid for investments to bring livestock up to standard and aid for the protection of herds against predation.

Aid for standard compliance investments for young farmers: the French authorities request that the possibility be reintroduced for young farmers to receive aid for investments corresponding to compliance work in relation to an applicable standard, provided that this work is carried out within a maximum period of 24 months from the date of installation, or during the period of carrying out the actions defined in the business plan referred to in point 3 of Article 75 of Regulation (EU) 2021/2115. This financial support was authorised in the previous programming period. The reintroduction of this possibility could, in particular, make it possible to support certain young farmer-breeders who need to bring the holding they are taking over up to standard with regard to the management of livestock effluent. The aim of this measure is to facilitate the transfer of holdings, in line with the recommendations to promote generational renewal in the agri-food sectors set out in the Strategic Dialogue on the Future of EU Agriculture.

#### **New measures proposed:**

Definition of permanent grassland: the French authorities ask that Member States be allowed to define the age at which a grassland area becomes permanent grassland (a change from 5 years to a period defined by the Member State up to a limit of 7 or 8 years, requested by farmers in France to take into account the agronomic practice of managing long-rotation grasslands, the five-year period being considered an administrative criterion that is out of touch with the reality of practices on the ground). The aim of this proposal is to avoid encouraging farmers to rotate their temporary grassland every 5 years to avoid it being considered as permanent grassland, which has a counter-productive effect on carbon storage in soils. This proposal is also consistent with the subsidiarity that is already left to the Member States as regards whether or not to take into account the agricultural practice of ploughing in the definition of permanent grassland.

Complementary income support for young farmers: the French authorities ask that a company be authorised to benefit from the complementary income support for young farmers (CISYF) beyond the 5 years provided for in the Regulation in the case of the installation of a new young farmer partner, so that each young person joining the company can enable the company to benefit from the CISYF for 5 years. Under the current provisions, a young person setting up within a company in which a young farmer had already been present in the past cannot benefit from the 5 years of aid under the CISYF, which constitutes an unfair situation compared to a young person setting up as an individual. The aim of this proposal is to encourage the renewal of generations of farmers, in line with the recommendations of the Strategic Dialogue on the Future of Agriculture.

Simplification of geospatial aid applications for farmers: the French authorities propose removing the requirement for farmers to submit information on the use of plant protection products on their parcels with their geospatial aid application if they are applying for an

ecoscheme with an obligation to use plant protection products, an agri-environment-climate measure (AECM) or support for organic farming. This obligation is currently set out in point f) of Article 8 of Implementing Regulation (EU) 2022/1173. The aim is to reduce the administrative burden on operators. This does not call into question the obligations set out in the phytosanitary reduction measures, which will have to be justified during the on-site inspections, or their level of ambition.

Increase in the ceiling for financial support for fruit and vegetable Operational Programmes (OPs): Article 52(2) of Regulation (EU) 2021/2115 lays down the ceilings for EU support for fruit and vegetable OPs, which correspond to a percentage of the value of the marketed production of each PO/APO. It is stated that these limits may be increased by 0.5 percentage points, provided that the additional aid is intended solely for one or more interventions linked to the objectives referred to in Article 46 points (d), (e), (f), (h), (i) and (j). However, it was recently added that in order to benefit from an increased support ceiling, the approved operational program must provide for the implementation of measures covering each of the sectoral objectives (d), (e), (f), (h), (i) and (j). This new condition on a key article of the Regulation considerably complicates the possibilities of obtaining access to the increased support ceiling. The French authorities ask the Commission to confine itself to the conditions set out in Article 52(2) of Regulation (EU) 2021/2115. In any event, France would like this additional condition not to be applied for the 2023 and 2024 operational funds.

#### **b. State aid in the agricultural sector**

Harmonize and simplify the conditions for support for investments in agricultural irrigation: the French authorities ask for the same eligibility conditions, with wording to be simplified and made identical in the 2 European regulations (EU 'SPR' Regulation No. 2021/2115, and Delegated Regulation No. 2022/126) and in the guidelines for State aid in the agricultural sector, while preserving environmental protection. Wording that is currently dissimilar and particularly complex (e.g. on points relating to water saving) or that may be deemed irrelevant (e.g. the prohibition on increasing irrigated areas in certain territories, without being able to consider, for example, an overall project leading to a reduction in the total volume withdrawn, particularly during the most critical low-water periods, despite a net increase in surface area) can lead to differing interpretations and great complexity or impossibility of implementation, even though a whole range of regulations dedicated to water exists in European legislation anyway. The wording of the articles concerned in these three regulatory texts should therefore be amended, as they currently result in irrelevant restrictions on the possibilities for financing investments in agricultural irrigation, despite the fact that the question of access to and sharing of water resources has become a strategic issue in the context of climate change.

#### **c. Health measures**

The French authorities point out that they have put forward a number of simplification proposals in the field of health regulations, in particular to facilitate the management of highly pathogenic avian influenza (HPAI). The proposals aim to better control the spread of HPAI, while alleviating certain constraints for poultry producers:

Extension of derogations for the movement of poultry: The French authorities propose to extend the categories of poultry eligible for derogation from movement restrictions in areas affected by HPAI. In practical terms, the current derogation for 'ready-to-lay poultry' would

be extended to all poultry other than day-old chicks. This would reduce the density of fattened ducks in the restricted areas and limit the spread of the virus. The aim of this amendment is to speed up the slaughter process by allowing ducks to be moved to force-feeding rooms, even within the same restricted area.

Reduced monitoring for vaccinated poultry: while the European Food Safety Authority (EFSA) recommends measures to reduce monitoring for birds vaccinated against HPAI, the French authorities would like to see these measures incorporated into Regulation (EU) 2023/361. This would reduce the monitoring requirements for vaccinated poultry, thereby simplifying their management.

Preventive vaccination in restricted areas: at present, preventive vaccination against HPAI is prohibited in restricted areas (article 7.1.b of Regulation (EU) 2023/361), except in the case of an emergency following a confirmed outbreak. The French authorities propose to allow preventive vaccination in these areas for farms that have already arranged for this measure prior to an outbreak. The aim of this amendment is to protect poultry without delay, while prohibiting preventive vaccination in restricted areas for holdings that have not arranged for this action.

### **Accreditation of National Reference Laboratories in plant health**

In France, the ANSES has twelve mandates for National Reference Laboratories (NRLs) and three mandates for European Union Reference Laboratories (EURLs) in the field of plant health. The GEVES holds six NRL mandates.

The French authorities point out that they have raised with the European Commission the difficulties encountered by French EURLs and NRLs in obtaining accreditation for each of the official methods of analysis for detecting organisms harmful to plants and plant products. Accreditation in accordance with standard EN ISO/CEN 17025 is a requirement laid down in Regulation (EU) 2017/625, known as the Official Controls Regulation, (article 37. 4 e)) for official laboratories, NRLs and EURLs. These laboratories must therefore be accredited for all analyses for the detection of harmful organisms listed in implementing regulation (EU) 2019/2072 as amended by regulation (EU) 2021/2285 (515 quarantine organisms (QO) and 126 regulated non-quarantine organisms (RNQO)).

However, there are currently a large number of regulated harmful organisms for which there is no method of analysis that meets the requirements of Article 34 of Regulation (EU) No 2017/625 (definition of criteria for characterising the methods to be used for official analyses and validation procedures). There is a serious lack of analytical methods meeting these criteria, especially in entomology.

Furthermore, although a flexibility mechanism in terms of accreditation is provided for in Article 37. 5. c) of Regulation (EU) No 2017/625, this flexibility does not make it possible to meet the regulatory requirements, as it is only an option within a well-defined framework. In particular, Delegated Regulation (EU) 2021/1353 describes the conditions for derogation from accreditation for official laboratories according to the groups of harmful organisms and categories of analytical methods used in official controls. However, this Regulation does not apply to reference laboratories.

This situation, which has been reported for several years and is persisting, presents a high risk of weakening official control procedures from a legal point of view.

**In this context, the French authorities would like consideration to be given to the possibility of amending Regulation (EU) No 2017/625, with a view to a new approach regarding the requirement for accreditation by method. It also seems necessary to pool the work of reference laboratories within Member States, in the absence of established standards or as a result of technical shortcomings.**

## **18. Better design and implementation of EU legislation**

The French authorities would like the Commission to fully address the challenges of designing and implementing European legislation, in the context of the simplification agenda and the objective of 'better law-making', as also set out in the Draghi report, with a view to strengthening European competitiveness and reducing the regulatory and administrative burden resulting from EU legislation.

In terms of design, it is essential that the principles of subsidiarity and proportionality are fully respected and that EU action is limited to what is strictly necessary to achieve its objectives. It is also important that the Commission clearly justifies the choice made between Regulation and Directive, taking into account the capacity of Member States to implement EU legislation, and that it rebalances this choice in favour of the Directive, which focuses on the objectives to be achieved, leaving Member States free to choose the means. Similarly, it is important that the Commission does not make too extensive use of the legal basis of the internal market (art. 114 TFEU), particularly with regard to the effects of full harmonisation that may result.

Improving European legislation also requires enhanced impact assessments which analyse the consequences of proposed legislation on competitiveness, European sovereignty, the outermost regions and national security before it is adopted by the College. These should allow for better consultation of stakeholders and Member States from the earliest stages of the legislative process.

The assessment of the impact of any new regulation on competitiveness in general and on small and medium-sized enterprises (SMEs) in particular, as well as greater involvement of stakeholders in the decision-making process, were clearly endorsed by the Draghi report, and subsequently by the Budapest declaration.

The implementation of EU law should also be improved and strengthened by rapidly revising the 'better law-making' agreement, as President von der Leyen announced in her political guidelines for the new College (2024-2029). This revision should incorporate the challenges of implementation from the earliest stages of the legislative cycle ("implementation-by-design").

In addition, **in July 2023**, the European Commission adopted a Stocktaking report (SWD (2023) 254 final) on EU law application policy. It is important that the recommendations contained in this report be implemented promptly. In this respect, the Commission should draw on Article 197 TFEU, which states that the effective implementation of Union law is a matter of common interest and that the Union can support the efforts of Member States. This joint program could usefully support Member States in their administrative capacity (national digital tools,

exchanges of good practice, assistance with reforms, etc.) and could take the form of a strengthened and simplified TSI (Technical Support Initiative). It is also essential that projects to modernise IT tools for monitoring legislative procedures and the implementation of EU law be given priority and sufficient funding (THEMIS, Joint Legislative Portal, EURLex, OEIL, etc.).

### **19. Simplification of the implementation of Regulation 2024/1689 laying down harmonised rules on artificial intelligence, and measures to support its development in the EU**

The European Commission's new term of office is expected to focus on the balanced and harmonised implementation of the provisions of the Artificial Intelligence Regulation (AIR), which will be phased in from 2 February 2025 until 2 August 2027. To facilitate adoption and compliance, the European Commission should draw up guidelines specifying the definitions and articulation with existing sectoral legislation.

**This term of office should see a legislative pause, in order to focus on the development of tools to facilitate implementation by ecosystems, while maintaining constant legislation:**

- Completion of the Code of Practice for suppliers of AI models; and
- Initiation of work relating to the modification and updating of the threshold, reference criteria and indicators used for the classification of general-purpose AI models as presenting a systemic risk so that they can be completed by the time the relevant provisions come into force (i.e. 2 August 2025), making the AIR a flexible and future-proof piece of legislation.

**A process of simplification of the applicable horizontal regulations** should be set into motion in order to support, in a fair balance with the protection of fundamental freedoms, the development of AI within the European Union alongside a balanced application of copyright protection to the development of generative AI. This calls for:

- The adoption of a “sufficiently detailed summary” model of the data used for training general-purpose AI models and of related guidelines ensuring a balance between the protection of trade secrets and the exercise, by copyright holders, of the rights attached in accordance with Recital 107 of the Regulation;
- The strengthening and launching of other initiatives and projects such as GENAI4EU<sup>1</sup>, AI factories<sup>2</sup>, ALT-EDIC<sup>3</sup> ;
- The clarification and launch of the plans for an EU Cloud and AI Development Act and an Apply AI strategy to boost European competitiveness; and
- The adaptation of certain legislation in order to strengthen Europe's attractiveness, for example in the context of the DMA by guaranteeing a level playing field for European

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<sup>1</sup> Initiative to support start-ups and SMEs committed to bringing AI-based transformative solutions to the market, in order to preserve human autonomy and improve human expertise, thus bringing significant added value to decision-making processes, as well as to services and industrial work.

<sup>2</sup> Dynamic ecosystems that foster innovation, collaboration and development in the field of AI. They bring together the necessary ingredients – computing power, data and talent – to create cutting-edge generative AI models.

<sup>3</sup> Alliance for Language Technologies – European Digital Infrastructure Consortium; coordinated by France; its role is to create a common European data and services infrastructure for language technologies in order to strengthen Europe's technological competitiveness while supporting its cultural diversity.

players vis-à-vis the very large non-European players, via an extension to AI throughout its entire value chain.