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C(2018) 7667 final

**COMMUNICATION FROM THE COMMISSION**

**amending the Guidelines for the Examination of State Aid to the Fishery and  
Aquaculture Sector**

The Communication from the Commission - Guidelines for the examination of State aid to the fishery and aquaculture sector<sup>1</sup> is amended as follows:

(1) point (9) is replaced by the following:

“State aid to the fishery and aquaculture sector is embedded within the broader framework of the Common Fisheries Policy (CFP). Consequently, the use of State aid can only be justified if it is in line with the objectives of the CFP. Therefore, the Commission applies and interprets these Guidelines in accordance with the rules of the CFP. Within the CFP the Union provides financial support to the fishery and aquaculture sector through the EMFF. The social and economic impact of public support is the same, irrespective of whether it is (even partly) financed by the Union or by a Member State alone. The Commission therefore considers that there should be consistency and coherence between its policy of State aid control and the support which is granted under the CFP. While State aid should not, in principle, be granted to operations that are not eligible for support under the EMFF, certain State aid measures, due to their positive contribution to the objectives of the CFP in specific circumstances, could nevertheless be compatible with the internal market.”;

(2) point (35) is replaced by the following:

“No aid must be granted for activities that correspond to ineligible operations under Article 11 of Regulation (EU) No 508/2014, unless otherwise stated in these Guidelines.”;

(3) point (38) is replaced by the following:

“The Commission considers that aid measures fulfilling the specific conditions set out in Sections 4, 5.1, 5.3, 5.4, and 5.6a of these Guidelines contribute to achieving an objective of common interest.”;

(4) point (42) is replaced by the following:

“For the purposes of these Guidelines, the Commission considers that the market is not achieving the expected objectives without State intervention and that there is therefore need for State intervention in the case of aid fulfilling the specific conditions laid down in Sections 4, 5.1, 5.3, 5.4, and 5.6a of these Guidelines.”;

(5) point (44) is replaced by the following:

“The Commission considers that aid which meets the specific conditions set out in Sections 4, 5.1, 5.3, 5.4, and 5.6a of these Guidelines is an appropriate policy instrument. In all other cases a Member State must demonstrate that no other less distortive policy instrument exists.”;

(6) point (52) is replaced by the following:

“Aid that is compensatory in nature, such as aid that meets the specific conditions set out in Sections 4, 5.3, and 5.4, aid that meets the conditions set out in Section 5.6, and aid that meets the specific conditions set out in Section 5.6a are not required to have an incentive effect.”;

(7) point (58) is replaced by the following:

“Aid that is compensatory in nature, such as aid that meets the specific conditions set out in Sections 4, 5.3, and 5.4, aid that meets the conditions set out in Section 5.6, and aid that meets the specific conditions set out in Section 5.6a are deemed to be proportional.”;

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<sup>1</sup> OJ C 217, 2.7.2015, p. 1.

(8) point (62) is replaced by the following:

“Due to its positive effects on the development of the sector the Commission considers that, where aid fulfils the specific conditions set out in Sections 4, 5.1, 5.3, 5.4, and 5.6a, the negative effects on competition and trade are limited to the minimum.”;

(9) after point (114) of Section 5.6 the following Section is inserted:

“ **5.6a. Aid for the renewal of the fishing fleet in outermost regions**

- (114a) Considering the particular status of the outermost regions under Article 349 of the Treaty and the prevailing challenges to their socio-economic development due to the specific factors set out in that Article, as follow-up to the Communication from the Commission on a stronger and renewed strategic partnership with the EU's outermost regions of 24 October 2017\* which recognised the role of sustainable fisheries for the development of the blue economy of those regions, and in view of the positive contribution of aid to the CFP in the outermost regions, in particular, as regards environmentally sustainable fishing activities, economic, social and employment benefits, and the availability of food supplies, where aid aims to support costs relating to the acquisition of a new fishing vessel that will be registered in an outermost region, the Commission will assess the aid on the basis of the principles set out in Section 3 of these Guidelines and the specific conditions set out in this Section.
- (114b) Aid for the acquisition of a new fishing vessel under this Section may only be granted if:
- (a) the new fishing vessel complies with Union and national rules on hygiene, health, safety, and working conditions for work on board of fishing vessels and characteristics of fishing vessels; and
  - (b) at the date of applying for the aid the beneficiary has its main place of registration in the outermost region where the new vessel will be registered.
- (114c) At the date of granting the aid, the most recent report prepared in accordance with Article 22(2) and (3) of Regulation (EU) No 1380/2013 before that date must demonstrate that there is balance between the fishing capacity and fishing opportunities in the fleet segment of the outermost region to which the new vessel will belong. No support shall be granted, if the assessment on the balance in that report for the fleet segment to which the vessel concerned will belong has not been prepared on the basis of the biological, economic and vessel use indicators set out in the common guidelines referred to in Article 22(2) of that Regulation\*\*.
- (114d) The fishing capacity ceilings of each Member State and of each fleet segment of the outermost regions set out in Annex II to Regulation (EU) No 1380/2013, taking into account any possible reduction of those ceilings under Article 22(6) of that Regulation, must not be exceeded at any time. The entry into the fleet of new capacity acquired with aid must be carried out in full respect of these capacity ceilings and must not lead to a situation in which these ceiling are exceeded.
- (114e) The aid must not be made conditional on the acquisition of the new vessel from a specific shipyard.
- (114f) The maximum intensity of public aid must not be more than 60% of the total eligible costs in the case of vessels with an overall length of less than 12 metres, must not be more than 50% of the total eligible costs in the case of vessels with an

overall length of 12 metres or more and less than 24 metres, and must not be more than 25% of the total eligible costs in the case of vessels with an overall length of 24 metres and more.

- (114g) The vessel acquired with aid must remain registered in the outermost region for at least 15 years from the date of granting the aid and must during that time land all of its catches in an outermost region. If that condition is not complied with, the aid must be reimbursed in an amount that is proportionate to the period or extent of non-compliance.

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\* Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank - A stronger and renewed strategic partnership with the EU's outermost regions (COM(2017) 623 final).

\*\* Communication from the Commission to the European Parliament and the Council - Guidelines for the analysis of the balance between fishing capacity and fishing opportunities according to Art 22 of Regulation (EU) No 1380/2013 of the European Parliament and the Council on the Common Fisheries Policy (COM(2014) 545 final).”;

- (10) point (115) is replaced by the following:

“Where aid does not correspond to one of the types of aid mentioned in Sections 4 and 5.1 to 5.6a, it is in principle not compatible with the internal market.”.

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