



EUROPEAN  
COMMISSION

Brussels, 17.12.2021  
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ANNEX

**ANNEX**

**to the**

**COMMUNICATION FROM THE COMMISSION**

**Approval of the content of a draft Commission Regulation declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union and repealing Commission Regulation (EU) No 1388/2014**

## ANNEX

### DRAFT COMMISSION REGULATION (EU) .../...

of **XXX**

**declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union and repealing Commission Regulation (EU) No 1388/2014**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid<sup>1</sup>, and in particular Article 1(1), point (a) (i), (vi) and (vii) thereof,

Having published a draft of this Regulation<sup>2</sup>,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) State funding meeting the criteria laid down in Article 107(1) of the Treaty on the functioning of the European Union ('TFEU') constitutes State aid and requires notification to the Commission by virtue of Article 108(3) thereof. However, pursuant to Article 109 TFEU, the Council may determine categories of aid that are exempted from this notification requirement. In accordance with Article 108(4) TFEU, the Commission may adopt regulations relating to those categories of aid.
- (2) Regulation (EU) 2015/1588, which replaced Council Regulation (EC) No 994/98<sup>3</sup>, empowers the Commission to declare, in accordance with Article 109 TFEU, that certain categories of aid may, under certain conditions, be exempted from the notification requirement. On the basis of Regulation (EC) No 994/98, the Commission adopted Commission Regulation (EU) No 1388/2014<sup>4</sup> which provided that, under certain conditions, aid to small and medium-sized enterprises ('SMEs') active in the production, processing and marketing of fishery and aquaculture products, as well as aid granted to undertakings active in those fields independently of the size of the

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<sup>1</sup> OJ L 248, 24.9.2015, p. 1.

<sup>2</sup> OJ C ...

<sup>3</sup> Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid (OJ L 142, 14.5.1998, p. 1).

<sup>4</sup> Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Article 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 369, 24.12.2014, p. 37).

beneficiary to make good the damage caused by natural disasters is compatible with the internal market and not subject to the notification requirement of Article 108(3) TFEU. Regulation (EU) No 1388/2014 applies until 31 December 2022.

- (3) The Commission has applied Articles 107 and 108 TFEU to undertakings active in the production, processing and marketing of fishery and aquaculture products in numerous decisions. It has also stated its policy in guidelines specific to that sector. In the light of the Commission's experience in applying those provisions, it is appropriate for the Commission to continue making use of the powers conferred by Regulation (EU) 2015/1588 in order to exempt aid to SMEs from the notification requirement of Article 108(3) TFEU under certain conditions. The exemption for SMEs should be extended to aid to make good the damage caused by certain protected animals.
- (4) It is appropriate to continue making use of the powers conferred by Regulation (EU) 2015/1588 in order to exempt aid to make good the damage caused by natural disasters which is granted to undertakings independently of the size of the beneficiary.
- (5) Regulation (EU) 2015/1588 empowers the Commission to exempt aid to make good the damage caused by certain adverse weather conditions in fisheries from the notification requirement of Article 108(3) TFEU. Based on that empowerment, this Regulation sets clear compatibility conditions for this category of aid and defines its scope as to include aid which is granted to undertakings independently of the size of the beneficiary.
- (6) The compatibility of State aid in the fishery and aquaculture sector is assessed by the Commission on the basis of the objectives of both the Competition Policy and the Common Fisheries Policy<sup>5</sup>. In the interest of coherence with Union-financed support measures, the maximum intensity of public aid allowed under this Regulation should be equal to that fixed for the same kind of aid in Article 41 of Regulation (EU) No 2021/1139 of the European Parliament and of the Council<sup>6</sup>.
- (7) It is essential that no aid is granted in circumstances where Union law, and in particular rules of the Common Fisheries Policy, are not complied with. An aid may therefore only be granted by a Member State in the fishery and aquaculture sector, if the measures financed and their effects comply with Union law. Member States should ensure that beneficiaries of State aid comply with the rules of the Common Fisheries Policy.
- (8) This Regulation should allow for better prioritisation of State aid enforcement activities and greater simplification and should enhance transparency, effective evaluation and the control of compliance with the State aid rules at national and Union levels, while preserving the institutional competences of the Commission and the Member States. In accordance with the principle of proportionality, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (9) The general conditions for the application of this Regulation should be defined on the basis of a set of common principles that ensure that the aid facilitates the development

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<sup>5</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

<sup>6</sup> Regulation (EU) 2021/1139 of the European Parliament and of the Council of 7 July 2021 establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004 (OJ L 247, 13.7.2021, p. 1).

of an economic activity, has a clear incentive effect, is appropriate and proportionate, is granted in full transparency and subject to a control mechanism and regular evaluation and does not adversely affect trading conditions to an extent that is contrary to the common interest.

- (10) Aid that fulfils all the conditions laid down in this Regulation both general and specific to the relevant categories of aid should be considered compatible with the internal market and exempted from the notification requirement laid down in Article 108(3) TFEU.
- (11) State aid within the meaning of Article 107(1) TFEU not covered by this Regulation or by other Regulations adopted pursuant to Article 1 of Regulation (EU) 2015/1588 remains subject to the notification requirement of Article 108(3) TFEU. This Regulation should be without prejudice to the right of Member States to notify aid potentially covered by this Regulation. Such aid should be assessed in the light of the Guidelines for the examination of State aid in the fishery and aquaculture sector<sup>7</sup> or any successor guidelines.
- (12) This Regulation should not apply to aid contingent upon the use of domestic products over imported ones or aid to export-related activities. In particular, it should not apply to aid financing the establishment and operation of a distribution network in other Member States or third countries. Aid towards the cost of participating in trade fairs or of studies or consultancy services needed for the launch of a new or existing product on a new market in another Member State or third country should not normally constitute aid to export-related activities.
- (13) The Commission should ensure that authorised aid does not adversely affect trading conditions to an extent that is contrary to the common interest. Therefore, aid in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market should be excluded from the scope of this Regulation, with the exception of aid schemes to make good damages caused by natural disasters or by adverse weather conditions which can be assimilated to a natural disaster.
- (14) Aid granted to undertakings in difficulty should in principle be excluded from the scope of this Regulation, since such aid should be assessed under the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty<sup>8</sup>. By way of exception, such aid can be granted under this Regulation in order to make good the damage caused by natural disasters or by certain adverse weather conditions. In order to provide legal certainty, it is appropriate to establish clear criteria to determine whether an undertaking is considered to be in difficulty for the purposes of this Regulation.
- (15) State aid enforcement is highly dependent on the cooperation of Member States. Therefore, Member States should take all necessary measures to ensure compliance with this Regulation, including compliance of individual aid granted under this Regulation.
- (16) In view of the need to strike the appropriate balance between minimising distortions of competition in the aided sector and the objectives of this Regulation, this Regulation

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<sup>7</sup> OJ C 217, 2.7.2015, p. 1.

<sup>8</sup> 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).

should not exempt individual aid which exceeds a fixed maximum amount, whether or not made under an aid scheme exempted by this Regulation.

- (17) For the purpose of transparency, equal treatment and effective monitoring, this Regulation should apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent *ex ante* without the need to undertake a risk assessment ('transparent aid').
- (18) This Regulation should define the conditions under which certain specific aid instruments, such as loans, guarantees, tax measures, and, in particular, repayable advances may be considered transparent. Aid comprised in guarantees should be considered as transparent, if the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down for the respective type of undertaking. In the case of SMEs, the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees<sup>9</sup> indicates levels of annual premium above which a State guarantee would be deemed not to constitute aid. For the purposes of this Regulation, capital injections and risk capital measures should not be considered transparent aid.
- (19) In order to ensure that the aid is necessary and acts as an incentive to further develop activities or projects, this Regulation should not apply to aid for activities in which the beneficiary would in any case engage even in the absence of the aid. Aid should only be exempted from notification requirement of Article 108(3) TFEU in accordance with this Regulation, where the activity or the work on the aided project starts after the beneficiary has submitted a written application for the aid.
- (20) Automatic aid schemes in the form of tax advantages should continue to be subject to a specific condition concerning the incentive effect, due to the fact that this kind of aid is granted under different procedures than other categories of aid. Such schemes should already have been adopted before work on the aided project or activity started. However, this condition should not apply in the case of fiscal successor schemes provided the activity was already covered by the previous fiscal schemes in the form of tax advantages. For the assessment of the incentive effect of such schemes, the crucial moment is the moment when the tax measure was set out for the first time in the original scheme, which is then replaced by the successor scheme.
- (21) For the calculation of aid intensity, only eligible costs should be included. This Regulation should not exempt aid which exceeds the relevant aid intensity as a result of including ineligible costs. The identification of eligible costs should be supported by clear, specific and up-to date documentary evidence. All figures used should be taken before any deduction of tax or other charges. Aid payable in several instalments should be discounted to its value on the date of granting the aid. The eligible costs should also be discounted to their value on the date of granting. The interest rate to be used for discounting purposes and for calculating the amount of aid in the case of aid which does not take the form of a grant should be respectively the discount rate and the reference rate applicable at the time of the grant, as laid down in the Commission Communication on the revision of the method for setting the reference and discount rates<sup>10</sup>. Where aid is granted by means of tax advantages, aid tranches should be discounted on the basis of the discount rates applicable on the various dates when the tax advantages become effective. The use of aid in the form of repayable advances

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<sup>9</sup> OJ C 155, 20.6.2008, p. 10.

<sup>10</sup> OJ C 14, 19.1.2008, p. 6.

should be promoted, since such risk-sharing instruments are conducive to strengthened incentive effect of aid. It is therefore appropriate to establish that where aid is granted in the form of repayable advances the applicable aid intensities referred to in this Regulation may be increased.

- (22) In the case of tax advantages on future taxes, the applicable discount rate and the exact amount of the aid tranches may not be known in advance. In such cases, Member States should set in advance a cap on the discounted value of the aid respecting the applicable aid intensity. Subsequently, when the amount of the aid tranche at a given date becomes known, discounting can take place on the basis of the discount rate applicable at that time. The discounted value of each aid tranche should be deducted from the overall amount of the cap ('capped amount').
- (23) To determine whether the notification thresholds and the maximum aid intensities referred to in this Regulation are respected, the total amount of State aid for the aided activity or project should be taken into account. Moreover, this Regulation should specify the circumstances under which different categories of aid may be cumulated. Aid exempted by this Regulation and any other compatible aid exempted under other regulations or approved by the Commission may be cumulated as long as those measures concern different identifiable eligible costs. Where different sources of aid are related to the same – partly or fully overlapping – identifiable eligible costs, cumulation should be allowed up to the highest aid intensity or aid amount applicable to that aid under this Regulation. This Regulation should also set out special rules for cumulation of aid measures with *de minimis* aid. *De minimis* aid is often not granted for or attributable to specific identifiable eligible costs. In such a case, it should be possible to freely cumulate *de minimis* aid with State aid exempted under this Regulation. Where, however, *de minimis* aid is granted for the same identifiable eligible costs as State aid exempted under this Regulation, cumulation should only be allowed up to the maximum aid intensity as referred to in Chapter III of this Regulation.
- (24) Given that State aid within the meaning of Article 107(1) TFEU is, in principle, prohibited, it is important to be able to check whether an aid is granted in compliance with the applicable rules. Transparency of State aid is, therefore, essential for the correct application of Treaty rules and leads to better compliance, greater accountability, peer review and ultimately more effective public spending. To ensure transparency, Member States should be required to establish comprehensive State aid websites, at regional or national level, setting out summary information about each aid measure exempted under this Regulation. That obligation should be a condition for the compatibility of the individual aid with the internal market. Following the standard practice regarding publication of information in Directive (EU) 2019/1024 of the European Parliament and the Council<sup>11</sup>, a standard format should be used which allows the information to be searched, downloaded and easily published on the Internet. The links to the State aid websites of all the Member States should be published on the Commission's website. In accordance with Article 3 of Regulation (EU) 2015/1588, summary information on each measure exempted under this Regulation should be published on the website of the Commission.

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<sup>11</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

- (25) To ensure effective monitoring of aid measures in accordance with Regulation (EU) 2015/1588, it is appropriate to establish requirements regarding the reporting by the Member States of aid measures which have been exempted pursuant to this Regulation and the application of this Regulation. Moreover, it is appropriate to establish rules concerning the records that Member States should keep regarding the aid exempted by this Regulation, in light of the limitation period established in Article 17 of Council Regulation (EU) 2015/1589<sup>12</sup>. Finally, each individual aid should contain an express reference to this Regulation.
- (26) To enforce the effectiveness of compatibility conditions set out in this Regulation, it should be possible for the Commission to withdraw the benefit of the block exemption for future aid measures in the event of failure to comply with these requirements. The Commission should be able to restrict the withdrawal of the benefit of the block exemption to certain types of aid, certain beneficiaries or aid measures adopted by certain authorities, where non-compliance with this Regulation affects only a limited group of measures or certain authorities. Such a targeted withdrawal should provide a proportionate remedy directly linked to the identified non-compliance with this Regulation. In case of failure to meet compatibility conditions set out in Chapters I and III, aid granted will not be covered by this Regulation and, as a consequence, will constitute unlawful aid, which the Commission will examine in the framework of the relevant procedure as set out in Regulation (EU) 2015/1588. In case of failure to fulfil the requirements of Chapter II, the withdrawal of the benefit of the block exemption in respect of the future aid measures does not affect the fact that the past measures complying with this Regulation were block exempted.
- (27) To eliminate differences that might give rise to distortions of competition and to facilitate coordination between different Union and national initiatives concerning SMEs, as well as for reasons of administrative and legal certainty, the definition of SMEs used for the purpose of this Regulation should be based on the definition in Commission Recommendation 2003/361/EC<sup>13</sup>.
- (28) This Regulation should cover types of aid granted in the fishery and aquaculture sector which have been systematically approved by the Commission in the past. This aid should not require a case-by-case assessment of its compatibility with the internal market from the Commission, provided that it complies with the conditions laid down in Regulation (EU) No 2021/1139 and the Common Fisheries Policy.
- (29) In accordance with Article 107(2), point (b), TFEU, aid to make good the damage caused by natural disasters is compatible with the internal market. In order to provide legal certainty, it is necessary to define the type of the events that may constitute a natural disaster exempted by this Regulation. For the purposes of this Regulation, earthquakes, landslides, floods, in particular floods brought about by waters overflowing river banks or lake shores, avalanches, tornadoes, hurricanes, volcanic eruptions and wildfires of natural origin should be considered events constituting a natural disaster.
- (30) Fishery and aquaculture are sectors, which are specifically exposed to adverse weather conditions and animal diseases. Experience shows that these sectors are hit

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<sup>12</sup> Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification).

<sup>13</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium sized enterprises (OJ L 124, 20.5.2003, p. 36).

extraordinarily by such events and that fishers suffer considerable damage from them. Measures to adequately insure and compensate such damage are considered to be a suitable tool to help undertakings recover from such damage and, thus, to remain in business and in that way to ensure the development of economic activities in those sectors.

- (31) Damage caused by adverse weather conditions such as storms, frost, hail, ice, rain or drought, which occur on a more regular basis, should not be considered a natural disaster within the meaning of Article 107(2), point (b), TFEU. Nevertheless, to the extent that their impact on the economic activity is such that they can be assimilated to a natural disaster, aid to make good damage caused by adverse weather conditions should be considered as compatible with the internal market pursuant to Article 107(3), point (c), TFEU.
- (32) In order to ensure that the exemption covers indeed aid granted to make good the damage caused by natural disasters and adverse weather conditions that can be assimilated to a natural disaster, this Regulation should lay down, following established practice, the conditions under which such aid schemes may benefit from that block exemption. Those conditions should relate, in particular, to the formal recognition by the competent Member States' authorities of the character of the event as a natural disaster or adverse weather conditions that can be assimilated to a natural disaster and to a direct causal link between the natural disaster and the damages suffered by the beneficiary undertaking, which may include undertakings in difficulty, and should ensure that overcompensation is avoided. The compensation should not exceed what is necessary to enable the beneficiary to return to the situation prevailing before the event occurred.
- (33) Fishery and aquaculture are sectors where there is insufficient incentive for individual action to occur, despite the fact that the result of individual action combined would correspond to the common good of all users. For this reason aid to protect and restore marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities, including waste collection from the sea, should be considered as compatible with the internal market pursuant to Article 107(3), point (c), TFEU.
- (34) In the light of the Commission's experience in this area, State aid policy should periodically be revised. The period of application of this Regulation should therefore be limited and transitional provisions should be laid down. Having regard to the fact that the conditions for granting aid under this Regulation are closely linked with the conditions established for the application of Regulation (EU) No 2021/1139 which establishes the European Maritime, Fisheries and Aquaculture Fund (EMFAF) for the period between 1 January 2021 and 31 December 2027, it is appropriate to align the period of application of this Regulation with that of the EMFAF.
- (35) Should this Regulation expire without being extended, aid schemes already exempted under this Regulation should continue to be exempted for six months,



HAS ADOPTED THIS REGULATION:

## **CHAPTER I**

### **COMMON PROVISIONS**

#### *Article 1*

##### **Scope**

1. This Regulation shall apply to aid granted to small and medium-sized enterprises (SMEs) active in the production, processing or marketing of fishery and aquaculture products.
2. This Regulation shall also apply to aid granted any enterprise active in the production, processing or marketing of fishery and aquaculture products to make good the damage caused by natural disasters in accordance with Article 46 or by certain adverse weather conditions in accordance with Article 47 independently of the size of the beneficiary of the aid.
3. This Regulation shall not apply to:
  - (a) aid the amount of which is fixed on the basis of price or quantity of products put on the market;
  - (b) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;
  - (c) aid contingent upon the use of domestic over imported goods;
  - (d) aid granted to undertakings in difficulty, with the exception of aid to make good the damage caused by natural disasters or by adverse weather conditions which can be assimilated to a natural disaster;
  - (e) aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, with the exception of aid schemes to make good the damage caused by natural disasters or by adverse weather conditions which can be assimilated to a natural disaster;
  - (f) *ad hoc* aid in favour of an undertaking as referred to in point (e);
  - (g) aid granted to operations which would have been ineligible for support under Article 13 of Regulation (EU) 2021/1139;
  - (h) aid granted to undertakings whose application for support from the EMFAF is inadmissible on the grounds set out in Article 11(1) and (3) of Regulation (EU) 2021/1139.

4. This Regulation shall not apply to State aid measures, which entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law, in particular:
- (a) aid where the grant of aid is subject to the obligation for the beneficiary to have its headquarters in the relevant Member State or to be predominantly established in that Member State. However, the requirement to have an establishment or branch in the aid granting Member State at the moment of payment of the aid is allowed;
  - (b) aid where the grant of aid is subject to the obligation for the beneficiary to use nationally produced goods or national services;
  - (c) aid restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.

## *Article 2*

### **Definitions**

For the purpose of this Regulation the following definitions shall apply:

- (1) ‘*ad hoc* aid’ means aid not granted on the basis of an aid scheme;
- (2) ‘aid’ means any measure fulfilling all the criteria laid down in Article 107(1) TFEU;
- (3) ‘aid intensity’ means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;
- (4) ‘aid scheme’ means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount;
- (5) ‘date of granting the aid’ means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime.
- (6) ‘fiscal successor scheme’ means a scheme in the form of tax advantages which constitutes an amended version of a previously existing scheme in the form of tax advantages and which replaces it;
- (7) ‘fishery and aquaculture products’ means the products defined in Annex I of Regulation (EU) No 1379/2013 of the European Parliament and of the Council<sup>14</sup>;
- (8) ‘gross grant equivalent’ means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charges;
- (9) ‘individual aid’ means:
  - (a) *ad hoc* aid;

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<sup>14</sup> Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

- (b) awards of aid to individual beneficiaries on the basis of an aid scheme;
- (10) ‘natural disasters’ means earthquakes, avalanches, landslides, floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin;
- (11) ‘protected animal’ means any animal protected either by Union or by national legislation;
- (12) ‘repayable advance’ means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;
- (13) ‘small and medium-sized enterprises (SMEs)’ means undertakings fulfilling the criteria laid down in Annex I;
- (14) ‘start of works’ means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs, ‘start of works’ means the moment of acquiring assets directly linked to the acquired establishment;
- (15) ‘undertaking in difficulty’ means an undertaking in respect of which at least one of the following circumstances occurs:
- (a) in the case of a limited liability company (other than an SME that has been in existence for less than three years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this definition, ‘limited liability company’ refers in particular to the types of company mentioned in Annex I to Directive 2013/34/EU of the European Parliament and of the Council<sup>15</sup> and ‘share capital’ includes, where relevant, any share premium;
  - (b) in the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this definition, ‘a company where at least some members have unlimited liability for the debt of the company’ refers in particular to the types of company mentioned in Annex II to Directive 2013/34/EU;
  - (c) where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors;
  - (d) where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.

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<sup>15</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

### *Article 3*

#### **Notification threshold**

1. This Regulation shall not apply to individual aid for any project with eligible costs in excess of EUR 2 million, or where the gross grant equivalent of the aid exceeds EUR 1 million per beneficiary per year.
2. The thresholds set out in paragraph 1 shall not be circumvented by artificially splitting up the aid schemes or aid projects.

### *Article 4*

#### **Conditions for exemption**

1. Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be compatible with the internal market within the meaning of Article 107(2) or (3) TFEU and shall be exempted from the notification requirement of Article 108(3) TFEU provided that such aids fulfil the conditions laid down in Chapter I of this Regulation, as well as the specific conditions for the relevant category of aid laid down in Chapter III of this Regulation.
2. Aid measures shall only be exempted under this Regulation as far as they explicitly provide that, during the grant period and up until five years after the final payment, the beneficiaries of the aid shall comply with the rules of the Common Fisheries Policy.

### *Article 5*

#### **Transparency of aid**

1. This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid ex ante without any need to undertake a risk assessment ('transparent aid').
2. The following categories of aid shall be considered to be transparent:
  - (a) aid comprised in grants and interest rate subsidies;
  - (b) aid comprised in loans where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant;
  - (c) aid comprised in guarantees:
    - (i) where the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice; or
    - (ii) where before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, or any

successor notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation;

- (d) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;
  - (e) aid in the form of repayable advances, if the total nominal amount of the repayable advance does not exceed the thresholds applicable under this Regulation or if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission.
3. For the purposes of this Regulation, the following categories of aid shall not be considered to be transparent aid:
- (a) aid comprised in capital injections;
  - (b) aid comprised in risk finance measures.

## *Article 6*

### **Incentive effect**

1. This Regulation shall apply only to aid which has an incentive effect.
2. Aid shall be considered to have an incentive effect, if the beneficiary has submitted a written application for the aid to the Member State concerned before work on the project or activity starts. The application for the aid shall contain at least the following information:
  - (a) undertaking's name and size;
  - (b) description of the project or activity, including its start and end dates;
  - (c) location of the project or activity;
  - (d) list of eligible costs;
  - (e) type of aid (grant, loan, guarantee, repayable advance or other) and amount of public funding needed for the project or activity.
3. Measures in the form of tax advantages shall be deemed to have an incentive effect, if the following conditions are fulfilled:
  - (a) the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and
  - (b) the measure has been adopted and is in force before work on the aided project or activity has started. This requirement shall not apply in the case of fiscal successor schemes, provided the activity was already covered by the previous schemes in the form of tax advantages.
4. The aid to make good the damage caused by natural disasters, by adverse weather conditions which can be assimilated to a natural disaster or by protected animals

shall not be required to have an incentive effect or shall be deemed to have such effect, if the conditions laid down in Articles 44, 45 and 46 are fulfilled.

## *Article 7*

### **Aid intensity and eligible costs**

1. For the purpose of calculating aid intensity and eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary. Value added tax (VAT) shall not be eligible for aid, except where it is non-recoverable under national legislation.
2. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.
3. Aid payable in several instalments shall be discounted to its value on the date of granting the aid. The eligible costs shall be discounted to their value on the date of granting the aid. The interest rate to be used for discounting purposes shall be the discount rate applicable on the date of granting the aid.
4. Where aid is granted by means of tax advantages discounting of aid tranches shall take place on the basis of the discount rates applicable on the various dates when the tax advantage takes effect.
5. Where aid is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable on the date of granting the aid, the maximum aid intensities laid down in Chapter III may be increased by 10 percentage points without exceeding a maximum aid intensity rate of 100 % of the total eligible expenditure of the operation.
6. The eligible costs shall comply with the requirements of Articles 53 to 57 of Regulation (EU) No 2021/1060 of the European Parliament and of the Council<sup>16</sup>.

## *Article 8*

### **Cumulation**

1. In determining whether the notification thresholds laid down in Article 3 and the maximum aid intensities laid down in Chapter III are respected, the total amount of State aid measures for the aided activity or project or undertaking shall be taken into

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<sup>16</sup> Regulation (EU) No 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

account, regardless of whether that aid is financed from local, regional, national or Union sources.

2. Aid exempted by this Regulation may be cumulated with:
  - (a) any other State aid, as long as those measures concern different identifiable eligible costs;
  - (b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under this Regulation.
3. State aid exempted under this Regulation shall not be cumulated with any de minimis aid in respect of the same eligible costs, if such cumulation would result in an aid intensity exceeding those referred to in Chapter III.

## *Article 9*

### **Publication and information**

1. The Member State concerned shall ensure the publication on the Commission's transparency award module or a comprehensive State aid website, at national or regional level of:
  - (a) the summary information referred to in Article 11 in the standardised format laid down in Annex II or a link providing access to it;
  - (b) the full text of each aid measure as referred to in Article 11 or a link providing access to the full text;
  - (c) the information on each individual aid award exceeding EUR 10 000.The information referred to in points (a), (b) and (c) of the first paragraph shall be published in accordance with Annex III.
2. For schemes in the form of tax advantages, the conditions set out in paragraph 1, point (c), shall be considered fulfilled, if Member States publish the required information on individual aid amounts in the following ranges (in EUR million):
  - (a) 0,03-0,2;
  - (b) 0,2-0,4;
  - (c) 0,4-0,6;
  - (d) 0,6-0,8;
  - (e) 0,8-1.
3. The information referred to in paragraph 1, point (c), shall be organised and accessible in a standardised manner, as set out in Annex III, and shall allow for effective search and download functions. The information referred to in paragraph 1 shall be published within six months from the date the aid was granted, or for aid in the form of tax advantage, within one year from the date the tax declaration is due, and shall be available for at least 10 years from the date on which the aid was granted.

4. Each aid scheme and individual aid shall contain an explicit reference to this Regulation, by citing its title and publication reference in the Official Journal of the European Union, and to the specific provisions of Chapter III concerned by that aid, or where applicable, to the national law which ensures that the relevant provisions of this Regulation are complied with. It shall be accompanied by its implementing provisions and its amendments.
5. The Commission shall publish on its website:
  - (a) the links to the State aid websites, referred to in paragraph 1 of this Article;
  - (b) the summary information referred to in Article 11.

## **CHAPTER II MONITORING**

### *Article 10*

#### **Withdrawal of the benefit of the block exemption**

Where a Member State grants aid allegedly exempted from the notification requirement under this Regulation without fulfilling the conditions set out in Chapters I, II and III, the Commission may, after having provided the Member State concerned with the possibility to make its views known, adopt a decision stating that all or some of the future aid measures adopted by the Member State concerned which would otherwise fulfil the requirements of this Regulation, are to be notified to the Commission in accordance with Article 108(3) TFEU. The measures to be notified may be limited to measures granting certain types of aid, in favour of certain beneficiaries or adopted by certain authorities of the Member State concerned.

### *Article 11*

#### **Reporting**

1. Member States shall transmit to the Commission in electronic form an annual report, as referred to in Chapter III of Commission Regulation (EC) No 794/2004<sup>17</sup>, on the application of this Regulation in respect of each whole year or each part of the year during which this Regulation applies.
2. Member States shall also transmit to the Commission, via the Commission's electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format laid down in Annex II, together with a link providing access to the full text of the aid measure, including its amendments, within 20 working days following its entry into force.

### *Article 12*

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<sup>17</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1).



## **Monitoring**

Member States shall maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in this Regulation are fulfilled. Such records shall be kept for 10 years from the date on which the *ad hoc* aid was granted or the last aid was granted under the scheme. The Member State concerned shall provide the Commission within a period of 20 working days or such longer period as may be fixed in the request, with all the information and supporting documentation which the Commission considers necessary to monitor the application of this Regulation.

## **CHAPTER III**

### **SPECIFIC PROVISIONS FOR DIFFERENT CATEGORIES OF AID**

#### **SECTION 1**

#### **FOSTERING SUSTAINABLE FISHERIES AND THE RESTORATION AND CONSERVATION OF AQUATIC BIOLOGICAL RESOURCES**

##### *Article 13*

#### **General conditions**

Any aid under this Section shall fulfill the following general conditions:

- (a) where aid is granted in respect of a Union fishing vessel, that vessel shall not be transferred or reflagged outside the Union during at least the five years from the final payment for the supported operation. If a vessel is transferred or reflagged within that time-frame, sums unduly paid in respect of the operation shall be recovered by the Member State, in an amount proportionate to the period during which the condition set out in the first sentence of this point has not been fulfilled;
- (b) operating costs shall not be eligible unless expressly provided for otherwise in this Section.

##### *Article 14*

#### **Aid for innovation**

1. Aid for innovation in fisheries fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid aims at developing or introducing new or substantially improved products and equipment, new or improved processes and techniques, and new or improved management and organization systems, including at the level of processing and marketing.
2. Operations financed by the aid are carried out by, or in collaboration with, a scientific or technical body, recognized by the Member State or the Union. That scientific or technical body shall validate the results of such operations.

3. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 15*

##### **Aid for advisory services**

1. Aid for advisory services fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims at improving the overall performance and competitiveness of undertakings and at promoting sustainable fisheries;
  - (b) the advisory service takes on one of the following forms:
    - (i) feasibility studies and advisory services that assess the viability of measures potentially eligible for support under Chapter II of Title II of Regulation (EU) 2021/1139;
    - (ii) the provision of professional advice on environmental sustainability, with a focus on limiting and, where possible, eliminating the negative impact of fishing activities on marine, terrestrial and freshwater ecosystems;
    - (iii) the provision of professional advice on business and marketing strategies.
2. The feasibility studies, advisory services and advice referred to in paragraph 1, point (b), shall be provided by scientific, academic, professional or technical bodies, or entities providing economic advice that have the competence required under national law.
3. The support referred to in paragraph 1 shall be granted to operators and organisations of fishers, including producer organisations.
4. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the measure. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 16*

##### **Aid for partnership between scientists and fishers**

1. Aid for partnership between scientists and fishers fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims at fostering the transfer of knowledge between scientists and fishers;

- (b) the aid supports the following:
  - (i) the creation of networks, partnership agreements or associations between one or more independent scientific bodies and fishers, or one or more organisations of fishers, in which technical bodies may participate;
  - (ii) the activities carried out in the framework of the networks, partnership agreements, or associations referred to in point (i). These activities may cover data collection and management activities, studies, pilot projects, dissemination of knowledge and research results, seminars and best practices.
- 2. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

### *Article 17*

#### **Aid to promote human capital, job creation and social dialogue**

- 1. Aid to promote human capital, job creation and social dialogue fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports the following:
  - (a) professional training, lifelong learning, joint projects, the dissemination of knowledge of an economic, technical, regulatory or scientific nature and of innovative practices, and the acquisition of new professional skills, in particular linked to the sustainable management of marine ecosystems, hygiene, health, safety, activities in the maritime sector, innovation and entrepreneurship;
  - (b) networking and exchange of experiences and best practices between stakeholders, including among organisations promoting equal opportunities between men and women, promoting the role of women in fishing communities and promoting under-represented groups involved in small-scale coastal fishing or in on-foot fishing;
  - (c) social dialogue at Union, national, regional or local level involving fishers, social partners and other relevant stakeholders.
- 2. The aid to support activities listed in paragraph 1 may also be granted to spouses of self-employed fishers or, where and in so far as recognised by national law, the life partners of self-employed fishers, not being employees or business partners, where they habitually, under the conditions laid down by national law, participate in the activities of the self-employed worker and perform the same tasks or ancillary tasks.
- 3. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 18*

### **Aid to facilitate diversification and new forms of income**

1. Aid to facilitate diversification and new forms of income fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims at supporting investments contributing to the diversification of the income of fishers through the development of complementary activities, including investments on board, angling tourism, restaurants, environmental services related to fishing and educational activities concerning fishing;
  - (b) the aid supports fishers who:
    - (i) submit a business plan for the development of their new activities; and
    - (ii) possess adequate professional skills which may be acquired through operations financed under Article 17(3), point (a).
2. The aid referred to in paragraph 1, point (a), shall only be granted if the complementary activities relate to the fisher's core fishing business.
3. The amount of that aid shall not exceed 50 % of the budget foreseen in the business plan for each operation, and shall not exceed a maximum amount of EUR 75 000 for each beneficiary.

## *Article 19*

### **Aid to improve health, safety and working conditions for fishers**

1. Aid to improve health, safety and working conditions for fishers fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid is granted only in respect of investments on board or in individual equipment and those investments go beyond the requirements under Union or national law;
  - (b) the aid does not support operations that increase the gross tonnage of a fishing vessel.
2. For operations that are aimed at improving safety for fishers on board fishing vessels, the purchase and, if applicable, the installation of the following items are eligible for support:
  - (a) life rafts;
  - (b) hydrostatic release units for life-rafts;
  - (c) personal locator beacons such as Emergency Position Indicating Radio Beacon ('EPIRB') devices, which may be integrated into lifejackets and working clothes of fishers;

- (d) Personal Flotation Devices ('PFD'), in particular immersion or survival suits, life buoys and jackets;
  - (e) distress flares;
  - (f) line throwing appliances;
  - (g) man-overboard ('MOB') recovery systems;
  - (h) fire-fighting apparatus, such as fire extinguishers, fire blankets, fire and smoke detectors, breathing apparatus;
  - (i) fire protection doors;
  - (j) fuel tank shut-off valves;
  - (k) gas detectors and gas alarm systems;
  - (l) bilge pumps and alarms;
  - (m) equipment for radio and satellite communications;
  - (n) watertight hatches and doors;
  - (o) guards on machinery, such as winches or net drums;
  - (p) gangways and access ladders;
  - (q) search, deck or emergency lighting;
  - (r) safety release mechanism for cases where fishing gear catches an underwater obstruction;
  - (s) safety cameras and monitors;
  - (t) equipment and elements necessary to improve deck safety.
3. For operations or the provision of equipment that are aimed at the improvement of the health conditions for fishers on board fishing vessels, the following actions are eligible for support:
- (a) the purchase and installation of first aid kits;
  - (b) the purchase of medicines and devices for urgent treatment on board;
  - (c) the provision of telemedicine including e-technologies, equipment and medical imagery applied to distance consultation from the vessels;
  - (d) the provision of guides and manuals to improve health on-board;
  - (e) information campaigns to improve health on board.
4. For operations or the provision of equipment that are aimed at the improvement of hygiene conditions for fishers on board fishing vessels, the purchase and, if applicable, the installation of the following items are eligible for support:
- (a) sanitary facilities, such as toilet and washing facilities;
  - (b) kitchen facilities and equipment for food supplies storage;
  - (c) water purification devices for potable water;
  - (d) cleaning equipment to keep sanitary conditions on board;
  - (e) guides and manuals on the improvement of hygiene on board, including software tools.

5. For operations or the provision of equipment that are aimed at the improvement of working conditions on board fishing vessels, the purchase and, if applicable, the installation of the following items are eligible for support:
  - (a) deck railings;
  - (b) shelter deck structures and the modernisation of cabins with a view of providing protection from adverse weather conditions;
  - (c) items relating to the improvement of cabin safety and to the provision of common areas for the crew;
  - (d) equipment to reduce heavy manual lifting, excluding machines directly related to the fishing operations such as winches;
  - (e) anti-slipping paint and rubber mats;
  - (f) insulation equipment against noise, heat or cold, and equipment to improve ventilation;
  - (g) working clothes and safety equipment such as waterproof safety boots, eyes and breathing protection, protective gloves and helmets, or protective equipment against falls;
  - (h) emergency and safety warning signs;
  - (i) risk analysis and assessments to identify the risks for fishers both in port or in navigation in order to take measures to prevent or reduce risks;
  - (j) guides and manuals on the improvement of working conditions on board.
6. The aid shall be granted to fishers or owners of fishing vessels.
7. Where the operation consists of an investment on board, the support shall not be granted more than once during the period between 1 January 2021 and 31 December 2027 for the same type of investment and for the same fishing vessel. Where the operation consists of an investment in individual equipment, the support shall not be granted more than once during the period between 1 January 2021 and 31 December 2027 for the same type of equipment and for the same beneficiary.
8. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 20*

### **Aid to mutual funds for public health crises, adverse weather conditions and environmental incidents**

1. Aid to mutual funds for public health crises, adverse weather conditions and environmental incidents fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims at contributing to mutual funds which pay financial compensation to fishers for economic losses caused by public health crises, adverse weather conditions or by environmental incidents or for the rescue costs for fishers or fishing vessels in the case of accidents at sea during their fishing activities;
  - (b) the combination of financial compensation paid by mutual funds under this Article with other Union or national instruments or private insurance schemes shall not lead to overcompensation exceeding the economic loss incurred.
- 2. For the purposes of this Article :
  - (a) public health crises, adverse weather conditions, environmental incidents or accidents at sea referred to in paragraph 1, point (a) , shall be those that are formally recognized by the competent authority of the Member State as having occurred.
  - (b) the term ‘mutual fund’ means a scheme accredited by the Member State, in accordance with its national law, which enables affiliated fishers to insure themselves, whereby compensation payments are made to affiliated fishers for economic losses caused by the events listed in paragraph 1, point (a). The mutual fund shall have a transparent policy towards payments into and withdrawals from the fund and have clear rules attributing responsibilities for any debts incurred
- 3. The contributions referred to in paragraph 1, point (a), shall only relate to the amounts paid by the mutual fund as financial compensation to fishers and may cover up to 50 % thereof. The administrative costs of setting up the mutual funds shall not be eligible for support.
- 4. The contributions referred to in paragraph 1, point (a), shall only be granted to cover losses caused by public health crises, adverse weather conditions, environmental incidents or accidents at sea which amount to more than 30 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the preceding three calendar years.
- 5. The aid shall not be made to the initial capital stock.

## *Article 21*

### **Aid to support systems of allocation of fishing opportunities**

- 1. Aid to support systems of allocation of fishing opportunities fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims at supporting the design, development, monitoring, evaluation and management of the systems for allocating the fishing opportunities between Member States, in accordance with Article 16(8) of Regulation (EU) No 1380/2013, in order to adapt the fishing activities to the fishing opportunities;
  - (b) the aid shall be granted to legal or natural persons or organisations of fishers recognized by the Member State, including recognized producer organisations

involved in the collective management of the systems allocating the fishing opportunities.

2. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the total eligible expenditure of the operation.

## *Article 22*

### **Aid to limit the impact of fishing on the marine environment and adapt fishing to the protection of species**

1. Aid to limit the impact of fishing on the marine environment and adapt fishing to the protection of species fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims at reducing the impact of fishing on the marine environment, at fostering the gradual elimination of discards and at facilitating the transition to a sustainable exploitation of living marine biological resources in accordance with Article 2(2) of Regulation (EU) No 1380/2013;
  - (b) the aid supports the following investments:
    - (i) in equipment improving size selectivity or species selectivity of fishing gear;
    - (ii) on board or in equipment that eliminates discards by avoiding and reducing unwanted catches of commercial stocks, or that deals with unwanted catches to be landed in accordance with Article 15 of Regulation (EU) No 1380/2013;
    - (iii) in equipment that limits and, where possible, eliminates the physical and biological impacts of fishing on the ecosystem or the sea bed;
    - (iv) in equipment that protects fishing gear and catches from mammals and birds protected by Council Directive 92/43/EEC<sup>18</sup> or Directive 2009/147/EC of the European Parliament and of the Council<sup>19</sup>, provided that it does not undermine the selectivity of the fishing gear and that all appropriate measures are introduced to avoid physical damage to the predators.
2. The aid shall not be granted more than once during the period between 1 January 2021 and 31 December 2027 for the same type of equipment on the same Union fishing vessel.
3. The aid shall only be granted where the fishing gear or other equipment referred to in paragraph 1, point (b), has a demonstrably better size-selection or a demonstrably

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<sup>18</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>19</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).



lower impact on the ecosystem and on non-target species than the standard gear or other equipment permitted under Union law, or under relevant national law adopted in the context of regionalization as provided for in Regulation (EU) No 1380/2013.

4. The aid shall be granted to
  - (a) owners of Union fishing vessels which are registered as active vessels and which have carried out fishing activities at sea of at least 60 days during the two calendar years preceding the date of submission of the application for support;
  - (b) fishers who own the gear to be replaced and who have worked on board of a Union fishing vessel for at least 60 days during the two calendar years preceding the date of submission of the application for support;
  - (c) organisations of fishers recognised by the Member State.
5. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the total eligible expenditure of the operation.

### *Article 23*

#### **Aid to innovation linked to the conservation of marine biological resources**

1. Aid to innovation linked to the conservation of marine biological resources fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c) TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims at contributing to the gradual elimination of discards and by-catches and to facilitate the transition to exploitation of living marine biological resources in accordance with Article 2(2) of Regulation (EU) No 1380/2013 and to reduce the impact of fishing on the marine environment and the impact of protected predator;
  - (b) the aid supports operations aimed at developing or introducing new technical or organizational knowledge that reduces the impact of fishing activities on the environment, including improved fishing techniques and gear selectivity, or aimed at achieving a more sustainable use of marine biological resources and coexistence with protected predators;
  - (c) the supported operations shall be carried out by, or in collaboration with, a scientific or technical body recognized by the Member State which shall validate the results of such operations;
  - (d) the results of supported operations are adequately publicized by the Member State.
2. Fishing vessels involved in projects financed under this Article shall not exceed 5 % of the number of vessels of the national fleet or 5 % of the national fleet tonnage in gross tonnage, calculated at the time of adoption of the support instrument.
3. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation.

Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 24*

### **Aid for the protection and restoration of marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities**

1. Aid for the protection and restoration of marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof.
2. The aid under this Article shall support the following operations:
  - (a) the collection of waste by the fisher from the sea such as the passive collection of lost fishing gear and marine litter; the following actions are eligible for support:
    - (i) the removal of lost fishing gear from the sea, in particular in order to combat ghost fishing;
    - (ii) the purchase and, if applicable, the installation of equipment on board for the collection and storage of litter;
    - (iii) the creation of schemes of waste collection for participating fishers, including financial incentives;
    - (iv) the purchase and, if applicable, the installation of equipment based in fishing port facilities for the storage and recycling of litter;
    - (v) communication, information, awareness raising campaigns, to encourage fishers and other stakeholders to participate in projects to remove lost fishing gear;
    - (vi) training for fishers and port agents.
  - (b) the construction, installation or modernization of static or movable facilities intended to protect and enhance marine fauna and flora, including their scientific preparation and evaluation; the following actions are eligible for support:
    - (i) the purchase and, if applicable, the installation of facilities to protect marine areas from trawling;
    - (ii) the purchase and, if applicable, the installation of facilities to restore degraded marine ecosystems;
    - (iii) costs relating to preliminary work such as prospecting, scientific studies or evaluations.

For operations referred in points (i) to (iv), the following costs shall not be eligible:

- acquisition of a vessel to be submerged and used as an artificial reef;
  - costs relating to the construction and maintenance of fish aggregating devices, except for costs provided for in point (iv);
- (c) contributions to a better management or conservation of marine biological resources by installing the following items or taking the following actions and projects:
- (i) circular hooks;
  - (ii) acoustic deterrent devices on nets;
  - (iii) turtle excluder devices ('TEDs');
  - (iv) streamer lines;
  - (v) other tools or devices proven efficient in preventing accidental catches of protected species;
  - (vi) training for fishers on better management or conservation of marine biological resources;
  - (vii) projects focussing on coastal habitats of importance for fish, birds and other organisms;
  - (viii) projects focusing on areas of importance for fish reproduction, such as coastal wetlands;
  - (ix) replacement of existing fishing gear with low impact fishing gear, costs related to fish pots and traps, jigging and hand-lining;
- (d) schemes for compensation for damage to catches caused by mammals and birds protected by Directives 92/43/EEC and 2009/147/EC;
- (e) the participation in other actions aimed at maintaining and enhancing biodiversity and ecosystem services, such as the restoration of specific marine and coastal habitats in support of sustainable fish stocks, including their scientific preparation and evaluation; costs related to the following actions are eligible for support:
- (i) costs relating to schemes to test novel monitoring techniques, and in particular:
    - remote electronic monitoring systems, such as CCTV, for the monitoring and recording of incidental catches of protected species;
    - the recording of oceanographic data such as temperature, salinity, plankton, algae blooms or turbidity;
    - the mapping of invasive alien species (IAS);
    - actions, including studies, to prevent and control the expansion of IAS;
  - (ii) financial incentives for the installation on board of automatic recording devices for monitoring and recording oceanographic data such as temperature, salinity, plankton, algae blooms or turbidity;
  - (iii) actions reducing physical and chemical pollution;

- (iv) actions reducing other physical pressures, including anthropogenic underwater noise that negatively affect biodiversity;
  - (v) positive conservation measures to protect and conserve flora and fauna, including the reintroduction of or stocking with native species, and applying Green Infrastructure principles referred to in the Commission Communication on Green Infrastructure<sup>20</sup>;
  - (vi) actions to prevent, control or eliminate IAS.
3. Support under paragraph 2, point (d), shall be subject to the formal recognition of such schemes by the competent authorities of the Member States. Member States shall also ensure that no overcompensation for damage occurs as a result of the combination of Union, national and private compensation schemes.
  4. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the total eligible expenditure of the operation.

## *Article 25*

### **Aid to improve energy efficiency and to mitigate the effects of climate change**

1. Aid to improve energy efficiency and to mitigate the effects of climate change, with the exception of aid to replace or modernize engines, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3).
2. The aid under this Article shall support the following operations:
  - (a) investments in equipment or on board aimed at reducing the emission of pollutants or greenhouse gases and increasing the energy efficiency of fishing vessels. Investments in fishing gear are also eligible provided that they do not undermine the selectivity of that fishing gear.
  - (i) For operations that are aimed at improving the hydrodynamics of the hull of the vessel, costs related to the following actions are eligible for support:
    - investments on stability mechanisms such as bilge keels and bulbous bows that contribute to improving sea-keeping and stability;
    - costs related to the use of non-toxic antifouling such as copper coating in order to reduce friction;
    - costs relative to the steering gear, such as steering gear control systems and multiple rudders to reduce rudder activity depending on weather and sea-state conditions;

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<sup>20</sup> Commission Communication, Green Infrastructure (GI) — Enhancing Europe's Natural Capital, Brussels, COM(2013) 249 final, 6.5.2013.

- tank testing in order to provide a basis for improving hydrodynamics.

Costs relating to basic hull maintenance shall not be eligible for funding under this paragraph.

- (ii) For operations that are aimed at improving the propulsion system of the vessel, costs related to the purchase and, if necessary, the installation of the following items are eligible for support:
  - energy efficient propellers including drive shafts;
  - catalysers;
  - energy efficient generators such as those using hydrogen, or natural gas;
  - renewable energy propulsion elements such as sails, kites, windmills, turbines, or solar panels;
  - bow thrusters;
  - conversion of engines to run on biofuels;
  - econometers, fuel management systems and monitoring systems;
  - investments in nozzles that improve the propulsion system.
- (iii) For investments in fishing gear and fishing equipment, costs relating to the following actions are eligible for support:
  - change from towed gear to alternative gear;
  - towed gear modifications;
  - investments in towed gear monitoring equipment.
- (iv) For investments that are aimed at the reduction of electricity or thermal energy, the following costs are eligible for support:
  - investments to improve the refrigeration, freezing, or insulation systems for vessels under 18 m;
  - investments to encourage the recycling of heat within the vessel involving the heat being recovered and reused for other auxiliary operations within the vessel.

(b) energy efficiency audits and schemes;

(c) studies to assess the contribution of alternative propulsion systems and hull designs to the energy efficiency of fishing vessels.

3. Support to activities listed under paragraph 2 shall only be granted to owners of fishing vessels and shall not be granted more than once for the same type of investment during the period between 1 January 2021 and 31 December 2027 for the same fishing vessel.
4. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 26*

### **Aid to added value, product quality and use of unwanted catches**

1. Aid to added value, product quality and use of unwanted catches, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims at improving the added value or quality of the fish caught;
  - (b) the aid supports the following investments:
    - (i) investments that add value to fishery products, in particular by allowing fishers to carry out the processing, marketing and direct sale of their own catches;
    - (ii) innovative investments on board that improve the quality of the fishery products.
2. The support referred to in paragraph 1, point (b)(ii), shall be conditional on the use of selective gears to minimize unwanted catches and shall only be granted to owners of Union fishing vessels that have carried out a fishing activity at sea for at least 60 days during the two calendar years preceding the date of submission of the application for support.
3. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 27*

### **Aid to fishing ports, landing sites, auction halls and shelters**

1. Aid to fishing ports, landing sites, auction halls and shelters fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims at increasing the quality, control and traceability of the products landed, increasing energy efficiency, contributing to environmental protection and improving safety and working conditions;
  - (b) the aid supports investments that:
    - (i) improve the infrastructure of fishing ports, auction halls, landing sites and shelters, including investments in facilities to provide adequate reception facilities for lost fishing gears and marine litter collected from the sea;

- (ii) facilitate compliance with the obligation to land all catches in accordance with Article 15 of Regulation (EU) No 1380/2013 and Article 8(2), point (b), of Regulation (EU) No 1379/2013 or add value to under-used components of the catch;
  - (iii) improve the safety of fishers by way of construction or modernization of shelters.
- 2. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 28*

### **Aid to inland fishing and inland aquatic fauna and flora**

1. Aid to inland fishing and inland aquatic fauna and flora fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid aims at reducing the impact of inland fishing on the environment, at increasing energy efficiency, at increasing the value or quality of fish landed, or at improving health, safety, working conditions, human capital and training.
2. The aid under this Article shall support the following investments:
  - (a) the promotion of human capital, job creation and social dialogue as referred to in Article 17 and under the conditions set out in that Article;
  - (b) on board or in individual equipment as referred to in Article 19 and under the conditions set out in that Article;
  - (c) in equipment and types of operations as referred to in Article 22 and under the conditions set out in that Article;
  - (d) the improvement of energy efficiency and the mitigation of the effects of climate change as referred to in Article 25 and under the conditions set out in that Article;
  - (e) the improvement of the value or quality of the fish caught as referred to in Article 26 and under the conditions set out in that Article;
  - (f) in fishing ports, shelters and landing sites as referred to in Article 27 and under the conditions set out in that Article.
3. The aid may provide support for the development and facilitation of innovation in accordance with Article 14, for the advisory services in accordance with Article 15 and for partnerships between scientists and fishers in accordance with Article 16.
4. In order to promote diversification by inland fishers, the aid may support the diversification of inland fishing activities to complementary activities under the conditions laid down in Article 18.
5. For the purpose of paragraph 2:

- (a) references made in Articles 19, 22, 25 and 26 to fishing vessels shall be understood as references to vessels operating exclusively in inland waters;
  - (b) references made in Article 22 to the marine environment shall be understood as reference to the environment in which the inland fishing vessel operates.
- 6. In order to protect and develop aquatic fauna and flora, the aid may support:
  - (a) the management, restoration and monitoring of NATURA 2000 sites which are affected by fishing activities, and the rehabilitation of inland waters in accordance with Directive 2000/60/EC of the European Parliament and the Council<sup>21</sup>, including spawning grounds and migration routes for migratory species, without prejudice to Article 24(2), point (e), of this Regulation and, where relevant, with the participation of inland fishers;
  - (b) the construction, modernization or installation of static or movable facilities intended to protect and enhance aquatic fauna and flora, including their scientific preparation, monitoring and evaluation.
- 7. Member States ensure that vessels receiving support under this Article continue to operate exclusively in inland waters.
- 8. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## **SECTION 2**

### **FOSTERING SUSTAINABLE AQUACULTURE ACTIVITIES**

#### *Article 29*

#### **General conditions**

- 1. Any aid under this Section shall fulfill the following general conditions:
  - (a) it shall be limited to aquaculture enterprises, unless otherwise stated in this Regulation;
  - (b) entrepreneurs entering the sector shall provide a business plan and, where the amount of investments is more than EUR 50 000, a feasibility study including an environmental assessment of the operations;
  - (c) where operations consist of investments in equipment or infrastructure ensuring compliance with future requirements relating to the environment, human or animal health, hygiene or animal welfare under Union law, support may be granted until the date on which such requirements become mandatory for the enterprises;
  - (d) aid shall not be granted to the farming of genetically modified organisms;

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<sup>21</sup> Directive 60/2000/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).



- (e) aid shall not be granted to aquaculture operations in marine protected areas, if it has been determined by the competent authority of the Member State, on the basis of an environmental impact assessment, that the operation would generate significant negative environmental impact that cannot be adequately mitigated.
2. Support under this Section shall be granted only where it has been clearly demonstrated in an independent marketing report that good and sustainable market prospects exist for the product.

#### *Article 30*

#### **Aid for innovation in aquaculture**

1. Aid for innovation in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
- (a) the aid stimulates innovation in aquaculture;
  - (b) the aid aims at the following:
    - (i) developing technical, scientific or organisational knowledge in aquaculture farms, which, in particular, reduces the impact on the environment, reduces dependence on fish meal and oil, fosters a sustainable use of resources in aquaculture, improves animal welfare or facilitates new sustainable production methods;
    - (ii) developing or introducing on the market new aquaculture species with market potential, new or substantially improved products, new or improved processes, or new or improved management and organisation systems;
    - (iii) exploring the technical or economic feasibility of innovative products or processes.
2. Operations under this Article shall be carried out by, or in collaboration with, public or private scientific or technical bodies, recognised by the Member State, which shall validate the results of such operations.
3. The results of operations receiving support shall be adequately publicised by the Member State.
4. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 31*

### **Aid for investments increasing productivity in aquaculture**

1. Aid for investments increasing productivity in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports:
  - (a) productive investments in aquaculture;
  - (b) diversification of aquaculture production and species cultured;
  - (c) modernisation of aquaculture units, including the improvement in working and safety conditions of aquaculture workers;
  - (d) improvements and modernisation related to animal health and welfare, including the purchase of equipment aiming at protecting the farms from wild predators;
  - (e) investments reducing the negative impact or enhancing the positive effects on the environment and increasing resource efficiency;
  - (f) investments in enhancing the quality of, or in adding value to, aquaculture products;
  - (g) the restoration of existing aquaculture ponds or lagoons through the removal of silt, or investments aimed at the prevention of silt deposits;
  - (h) the diversification of the income of aquaculture enterprises through the development of complementary activities;
  - (i) investments resulting in a substantial reduction in the impact of aquaculture enterprises on water usage and quality, in particular through reducing the amount of water or chemicals, antibiotics and other medicines used, or through improving the output water quality, including through the deployment of multi-trophic aquaculture systems;
  - (j) the promotion of closed aquaculture systems where aquaculture products are farmed in closed recirculation systems, thereby minimising water use;
  - (k) investments increasing energy efficiency and promoting the conversion of aquaculture enterprises to renewable sources of energy.
2. Aid under paragraph 1, point (h), shall only be granted to aquaculture enterprises if the complementary activities relate to the core aquaculture business of the enterprise, including angling tourism, environmental services related to aquaculture or educational activities concerning aquaculture.
3. Aid listed in paragraph 1 of this Article may be granted for investments that increase production and/or modernisation of existing aquaculture undertakings, or for the construction of new production capacity, provided that the development is consistent with the plan for the development of aquaculture referred to in Article 34 of Regulation (EU) No 1380/2013.
4. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## Article 32

### **Aid to management, relief and advisory services for aquaculture farms**

1. Aid to management, relief and advisory services for aquaculture farms fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid improves the overall performance and competitiveness of aquaculture farms;
  - (b) the aid reduces the negative environmental impact of aquaculture farms;
  - (c) the aid supports the purchase of farm advisory services of a technical, scientific, legal, environmental or economic nature. It shall only be granted to aquaculture SMEs or aquaculture organisations, including aquaculture producer organisations and associations of aquaculture producer organisations.
2. Advisory services referred to in paragraph 1, point (c), shall cover:
  - (a) the management needs to enable aquaculture farms to comply with Union and national environmental legislation, as well as with maritime spatial planning requirements;
  - (b) environmental impact assessment as referred to in Directive 2011/92/EU of the European Parliament and of the Council<sup>22</sup> and Directive 92/43/EEC;
  - (c) the management needs to enable aquaculture farms to comply with Union and national aquatic animal health and welfare or public health legislation;
  - (d) standards based on Union and national legislation;
  - (e) marketing and business strategies.
3. Those services shall be provided by scientific or technical bodies, as well as by entities providing legal or economic advice with the required competences as recognised by the Member State.
4. Beneficiaries shall not receive aid more than once per year for each category of advisory service listed in paragraph 2.
5. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## Article 33

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<sup>22</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

### **Aid to promote human capital and networking in aquaculture**

1. Aid for human capital and networking in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports the following:
  - (a) professional training, lifelong learning, the dissemination of scientific and technical knowledge and innovative practices, the acquisition of new professional skills in aquaculture and with regard to the reduction of the environment impact of aquaculture operations;
  - (b) the improvement of working conditions and the promotion of occupational safety;
  - (c) networking and exchange of experiences and best practices among aquaculture enterprises or professional organisations and other stakeholders, including scientific and technical bodies or those promoting equal opportunities between men and women.
2. The aid referred to in paragraph 1, point (a), shall not be granted to large aquaculture enterprises, unless they are engaged in knowledge-sharing with SMEs that operate in aquaculture sector.
3. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

### *Article 34*

#### **Increasing the potential of aquaculture sites**

1. Aid for increasing the potential of aquaculture sites in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid contributes positively to development of the aquaculture sites and infrastructures and reduces the negative environmental impact of the operations;
  - (b) the aid supports the following:
    - (i) the identification and mapping of the most suitable areas for developing aquaculture, taking into account, where applicable, spatial planning processes, and the identification and mapping of areas where aquaculture should be excluded in order to maintain the role of such areas in the functioning of the ecosystem;
    - (ii) the improvement and development of support facilities and infrastructures required to increase the potential of aquaculture sites and

- to reduce the negative environmental impact of aquaculture, including investments in land consolidation, energy supply or water management;
- (iii) action taken and implemented by competent authorities under Article 9(1) of Directive 2009/147/EC or Article 16(1) of Directive 92/43/EEC, with the aim of preventing serious damage to aquaculture;
  - (iv) action taken and implemented by competent authorities following the detection of increased mortalities or diseases as provided for in Article 10 of Council Directive 2006/88/EC<sup>23</sup>. Those actions may cover the adoption of shellfish action plans aimed at the protection, restoration and management, including support to shellfish producers for the maintenance, of natural shellfish banks and catchment areas.
2. Beneficiaries under this Article shall only be those undertakings who have been entrusted by the Member State with the tasks referred to in paragraph 1, point (b).
  3. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 35*

#### **Encouraging new aquaculture farmers practising sustainable aquaculture**

1. Aid for encouraging new aquaculture farmers practising sustainable aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided:
  - (a) the aid fosters entrepreneurship in aquaculture;
  - (b) the aid supports the setting-up of sustainable aquaculture enterprises by new aquaculture farmers.
2. Support shall be granted to aquaculture farmers entering the sector provided that they:
  - (a) possess adequate professional skills and competence;
  - (b) set up for the first time an aquaculture micro or small enterprise, as managers of that enterprise;
  - (c) submit a business plan for the development of their aquaculture activities.
3. In order to acquire adequate professional skills, aquaculture farmers entering the sector may benefit from support under Article 33(1).

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<sup>23</sup> Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals (OJ L 328, 24.11.2006, p. 14).

4. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

### *Article 36*

#### **Aid for the conversion to eco-management and audit schemes and organic aquaculture**

1. Aid for the conversion to eco-management and audit schemes and organic aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided:
- (a) the aid promotes the development of organic or energy-efficient aquaculture;
  - (b) the aid supports the following:
    - (i) the conversion of conventional aquaculture production methods into organic aquaculture within the meaning of Council Regulation (EC) No 834/2007<sup>24</sup> and in accordance with Commission Regulation (EC) No 710/2009<sup>25</sup>;
    - (ii) the participation in the Union eco-management and audit schemes (EMAS) in accordance with Regulation (EC) No 1221/2009 of the European Parliament and of the Council<sup>26</sup>.
2. The aid shall only be granted with regard to the conversion of beneficiaries who commit themselves to participate in the EMAS for a minimum of three years or to comply with the requirements of organic production for a minimum of five years.
3. Aid shall take the form of compensation for a maximum of three years during the period of the conversion of the enterprise to organic production, or during the preparation for participation in the EMAS. Member States shall calculate that compensation on the basis of:
- (a) the loss of revenue or additional costs incurred during the period of transition from conventional into organic production for operations eligible under paragraph 1, point (b)(i); or
  - (b) the additional costs resulting from the application and preparation of the participation in EMAS for operations eligible under paragraph 1, point (b)(ii) .

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<sup>24</sup> Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

<sup>25</sup> Commission Regulation (EC) No 710/2009 of 5 August 2009 amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007, as regards laying down detailed rules on organic aquaculture animal and seaweed production (OJ L 204, 6.8.2009, p. 15).

<sup>26</sup> Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).

4. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

### *Article 37*

#### **Aid to aquaculture providing environmental services**

1. Aid to aquaculture providing environmental services fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid fosters the development of aquaculture providing environmental services;
  - (b) the aid supports the following:
    - (i) aquaculture methods compatible with specific environmental needs and subject to specific management requirements resulting from the designation of NATURA 2000 areas in accordance with Directives 92/43/EEC and 2009/147/EC;
    - (ii) participation, in terms of costs directly related thereto, in ex-situ conservation and reproduction of aquatic animals, within the framework of conservation and biodiversity restoration programmes developed by public authorities, or under their supervision;
    - (iii) aquaculture operations which include conservation and improvement of the environment and of biodiversity, and management of the landscape and traditional features of aquaculture zones.
2. Aid under paragraph 1, point (b)(i), of this Article shall take the form of annual compensation for the additional costs incurred and/or income foregone as a result of management requirements in the areas concerned, related to the implementation of Directives 92/43/EEC or 2009/147/EC.
3. Aid under paragraph 1, point (b)(iii), shall be granted only to beneficiaries who commit themselves for a minimum period of five years to aqua-environmental requirements that go beyond the mere application of Union and national law. The environmental benefits of the operation shall be demonstrated by a prior assessment conducted by competent bodies designated by the Member State, unless the environmental benefits of that operation are already recognised.
4. Aid under paragraph 1, point (b)(iii), shall take the form of annual compensation for the additional costs incurred and/or income foregone.
5. The results of operations receiving aid under this Article shall be adequately publicised by the Member State.
6. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the total eligible expenditure of the operation.



## Article 38

### Aid for public health measures

1. Aid for public health measures fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports a compensation scheme which compensates mollusc farmers for the temporary suspension of the harvesting of farmed molluscs, where such suspension occurs exclusively for reasons of public health.
2. Support under paragraph 1 may only be granted where the closing of the classified production or relaying area, in accordance with Article 62 of Commission Implementing Regulation (EU) 2019/627<sup>27</sup> is due to the proliferation of toxin-producing plankton or to the presence of plankton containing biotoxins exceeding the limits established in Annex III, Section VII, Chapter V of Regulation (EC) No 853/2004 of the European Parliament and of the Council<sup>28</sup>, and provided that:
  - (a) the contamination lasts for more than four consecutive months; or
  - (b) the loss, resulting from the suspension of the harvest, amounts to more than 25 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the three calendar years preceding the year in which the harvest was suspended;

For the purposes of point (b) of the first subparagraph, Member States may establish special calculation rules in respect of companies with less than three years of activity.
3. The duration for which compensation may be granted shall be a maximum of 12 months between 1 January 2021 and 31 December 2027. In duly justified cases, it may be extended once for a maximum of an additional 12 months up to a combined maximum of 24 months.
4. The aid and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

## Article 39

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<sup>27</sup> Commission Implementing Regulation (EU) 2019/627 laying down uniform practical arrangements for the performance of official controls on products of animal origin intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council and amending Commission Regulation (EC) No 2074/2005 as regards official controls (OJ L 131, 17.5.2019, p. 51).

<sup>28</sup> Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).



## **Aid for animal health and welfare measures**

1. Aid for animal health and welfare in aquaculture undertakings fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims at fostering animal health and welfare in aquaculture enterprises, inter alia, in terms of prevention and bio-security;
  - (b) the aid supports the following:
    - (i) the costs of control and eradication of diseases in aquaculture listed in Article 5(1) of Regulation (EU) 2016/429 of the European Parliament and the of the Council<sup>29</sup>, or in the Aquatic Animal Health Code of the World Organisation for Animal Health, including the operational costs necessary to fulfil the obligations in an eradication plan;
    - (ii) the development of general and species-specific best practices or codes of conduct on bio-security or on animal health and animal welfare needs in aquaculture;
    - (iii) initiatives aimed at reducing the dependence of aquaculture on veterinary medicine;
    - (iv) veterinary or pharmaceutical studies and dissemination and exchange of information and best practices regarding veterinary diseases in aquaculture, with the aim of promoting an appropriate use of veterinary medicine;
    - (v) the establishment and operation of health protection groups in the aquaculture sector as recognised by Member States;
    - (vi) compensation to mollusc farmers for the temporary suspension of their activities due to exceptional mass mortality, if the yearly mortality rate exceeds 20 %, or if the loss resulting from the suspension of the activity amounts to more than 35 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the three calendar years preceding the year in which the activities were suspended.
2. The aid under paragraph 1, point (b)(iv), shall not cover the purchase of veterinary medicines.
3. The results of the studies financed under paragraph 1, point (b)(iv), shall be adequately reported and publicised by the Member State.
4. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the total eligible expenditure of the operation.

## *Article 40*

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<sup>29</sup> Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (Animal Health Law) (OJ L 84, 31.3.2016, p. 1).

### **Aid for aquaculture stock insurance**

1. Aid for aquaculture stock insurance fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid promotes to safeguard the income of aquaculture producers;
  - (b) the aid contributes to an aquaculture stock insurance covering economic losses due to at least one of the following:
    - (i) natural disasters;
    - (ii) adverse weather conditions;
    - (iii) sudden water quality and quantity changes for which the operator is not responsible;
    - (iv) diseases in aquaculture, failure or destruction of production facilities for which the operator is not responsible;
    - (v) public health crises.
2. The occurrence of the circumstances referred to in paragraph 1, point (b), in aquaculture shall be formally recognised as such by the Member State concerned.
3. Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to in paragraph 2 shall be deemed to be granted.
4. Support shall only be granted for aquaculture stock insurance contracts which cover economic losses, as referred to in paragraph 1, exceeding 30 % of the average annual turnover of the aquaculture farmer, calculated on the basis of the average turnover of the aquaculture farmer over the three calendar years preceding the year in which the economic losses occurred.
5. The contributions referred to in paragraph 1, point (b), shall only relate to the amounts paid by the aquaculture stock insurance as financial compensation to a beneficiary and may cover up to 50 % thereof. The administrative costs of setting up the insurance shall not be eligible for support.

## **SECTION 3**

### **MARKETING AND PROCESSING RELATED MEASURES**

#### *Article 41*

### **Aid for marketing measures**

1. Aid for marketing measures fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid promotes marketing measures for fishery and aquaculture products;
  - (b) the aid aims at:

- (i) creating producer organisations, associations of producer organisations or inter-branch organisations to be recognised in accordance with Chapter II, Section II, of Regulation (EU) No 1379/2013;
- (ii) finding new markets and improving the conditions for the placing on the market of fishery and aquaculture products, including:
  - species with marketing potential;
  - unwanted catches landed from commercial stocks in accordance with technical measures, Article 15 of Regulation (EU) No 1380/2013 and Article 8(2), point (b), of Regulation (EU) No 1379/2013;
  - fishery and aquaculture products obtained using methods with low impact on the environment, or organic aquaculture products within the meaning of Regulation (EC) No 834/2007;
- (iii) promoting the quality and the value added by facilitating:
  - the application for registration of a given product and the adaptation of concerned operators to the relevant compliance and certification requirements in accordance with Regulation (EU) No 1151/2012 of the European Parliament and of the Council<sup>30</sup>;
  - the certification and the promotion of sustainable fishery and aquaculture products, including products from small-scale coastal fishing, and of environmentally-friendly processing methods;
  - the direct marketing of fishery products by small-scale coastal fishers or by on-foot fishers;
  - the presentation and packaging of products;
- (iv) contributing to the transparency of production and the markets and conducting market surveys and studies on the Union's dependence on imports;
- (v) contributing to the traceability of fishery or aquaculture products and, where relevant, the development of a Union-wide ecolabel for fishery and aquaculture products as referred to in Regulation (EU) No 1379/2013;
- (vi) drawing up standard contracts for SMEs, which are compatible with Union law;
- (vii) conducting regional, national or transnational communication and promotional campaigns, which are not aimed at commercial brands, to raise public awareness of sustainable fishery and aquaculture products.

2. The operations referred to in paragraph 1, point (b), may include the production, processing and marketing activities along the supply chain. The operations referred to in paragraph 1, point (b)(vii), shall not be aimed at commercial brands.

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<sup>30</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

3. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 42*

##### **Aid for the processing of fishery and aquaculture products**

1. Aid for processing of fishery and aquaculture products fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports investments in the processing of fishery and aquaculture products.
2. The aid under this Article aims at supporting measures that:
  - (a) contribute to energy saving or reducing the impact on the environment, including waste treatment;
  - (b) improve safety, hygiene, health and working conditions;
  - (c) support the processing of catches of commercial fish that cannot be destined for human consumption;
  - (d) relate to the processing of by-products resulting from main processing activities;
  - (e) relate to the processing of organic aquaculture products pursuant to Articles 6 and 7 of Regulation (EC) No 834/2007;
  - (f) lead to new or improved products, new or improved processes, or new or improved management and organisation systems.
3. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the total eligible expenditure of the operation. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## **SECTION 4**

### **OTHER CATEGORIES OF AID**

#### *Article 43*

##### **Aid for collection, management, use and processing of data in the fisheries sector**

1. Aid for collection, management, use and processing of biological, environmental, technical and socio-economic data in the fisheries sector fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from

the notification requirement of Article 108(3) thereof provided that the aid supports the collection, management and use of data, as provided for in Article 25(1) and (2) of Regulation (EU) No 1380/2013 and further specified in Regulation (EC) No 2017/1004.

2. The following types of operations are eligible:
  - (a) the collection, management and use of data for the purpose of scientific analysis and implementation of the CFP;
  - (b) national, transnational and subnational multiannual sampling programmes, provided that they relate to stocks covered by the CFP;
  - (c) at-sea monitoring of commercial and recreational fisheries, including monitoring of by-catch of marine organisms such as marine mammals and birds;
  - (d) research surveys at sea;
  - (e) the improvement of data collection and data management systems and the implementation of pilot studies to improve existing data collection and data management systems.
3. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the total eligible expenditure of the operation.

#### *Article 44*

##### **Aid to make good the damage caused by natural disasters**

1. Aid to make good the damage caused by natural disasters fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(2), point (b), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the competent authority of the Member State has formally recognized the character of the event as a natural disaster; and
  - (b) there is a direct causal link between the natural disaster and the damage suffered by the undertaking.
2. Aid shall be paid directly to the undertaking concerned.
3. Aid schemes related to a specific natural disaster shall be established within three years from the date of the occurrence of the natural disaster. The aid shall be paid out within four years from that date.
4. The eligible costs shall be the damage incurred as a direct consequence of the natural disaster, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking. That damage may include the following:
  - (a) material damage to assets such as buildings, equipment, machinery, stocks and means of production;

- (b) loss of income due to the full or partial destruction of fishery or aquaculture production or the means of such production not exceeding six months from the occurrence of the disaster.
- 5. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the disaster. It shall not exceed the repair cost or the decrease in fair market value caused by the natural disaster, namely the difference between the asset's value immediately before and immediately after the disaster.
- 6. The loss of income shall be calculated by subtracting:
  - (a) the result of multiplying the quantity of the fishery and aquaculture products produced in the year of the natural disaster, or in each following year affected by the full or partial destruction of the means of production, by the average selling price obtained during that year; from
  - (b) the result of multiplying the average annual quantity of fishery and aquaculture products produced in the three-year period preceding the natural disaster, or a three year average based on the five-year period preceding the natural disaster, excluding the highest and lowest entry, by the average selling price obtained.
- 7. The damage shall be calculated at the level of the individual undertaking.
- 8. The aid and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

#### *Article 45*

#### **Aid to make good the damage caused by adverse weather conditions which can be assimilated to a natural disaster**

- 1. Aid to make good the damage caused by adverse weather conditions which can be assimilated to a natural disaster fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 11 of this Article.
- 2. Aid to make good damage caused by adverse weather conditions which can be assimilated to a natural disaster is a suitable tool to help undertakings recover from such damage and facilitate the development of economic activities without adversely affecting the trading conditions to an extent contrary to the common interest, subject to the following conditions:
  - (a) the competent authority of the Member State has formally recognized the character of the adverse weather condition as a weather condition which can be assimilated to a natural disaster;
  - (b) there is a direct causal link between the adverse weather condition which can be assimilated to a natural disaster and the damage suffered by the undertaking.
- 3. For the purposes of this Article, adverse weather condition which can be assimilated to a natural disaster means unfavourable weather conditions such as frost, storms, hail, ice, heavy and persistent rain or severe drought which reduce by more than 30 % the average of the production calculated on the basis of one of the following:

- (a) the preceeding three-year period;
  - (b) a three year average based on the preceding five-year period, excluding the highest and the lowest entry.
- 4. The aid shall be paid directly to the undertaking concerned.
- 5. Aid schemes shall be established within three years from the date of the occurrence of the adverse weather condition which can be assimilated to a natural disaster. The aid shall be paid out within four years from that date.
- 6. The eligible costs shall be the damage incurred as a direct consequence of the adverse weather condition which can be assimilated to a natural disaster, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking. That damage may include the following:
  - (a) material damage to assets such as buildings, equipment, machinery, stocks and means of production;
  - (b) loss of income due to the full or partial destruction of fishery or aquaculture production or the means of such production for a period not exceeding six months from the occurrence of the adverse weather condition which can be assimilated to a natural disaster.
- 7. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the adverse weather condition which can be assimilated to a natural disaster. It shall not exceed the repair cost or the decrease in fair market value caused by the adverse weather condition which can be assimilated to a natural disaster, namely the difference between the asset's value immediately before and immediately after the adverse weather condition which can be assimilated to a natural disaster.
- 8. The loss of income shall be calculated by subtracting:
  - (a) the result of multiplying the quantity of the fishery and aquaculture products produced in the year of the adverse weather condition which can be assimilated to a natural disaster, or in each following year affected by the full or partial destruction of the means of production, by the average selling price obtained during that year; from
  - (b) the result of multiplying the average annual quantity of fishery and aquaculture products produced in the three-year period preceding the adverse weather condition which can be assimilated to a natural disaster, or a three year average based on the five-year period preceding the adverse weather condition which can be assimilated to a natural disaster, excluding the highest and lowest entry, by the average selling price obtained.
- 9. The damage shall be calculated at the level of the individual undertaking.
- 10. In the case of losses caused by adverse weather conditions referred to in Article 20, the Member State shall justify why it intends to grant aid rather than financial compensation being paid through mutual funds for adverse weather conditions.
- 11. The aid and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

*Article 46*

### **Aid to compensate for the damage caused by protected animals**

1. Aid to compensate for the damage caused by protected animals fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) there is a direct established causal link between the damage suffered and the behaviour of the protected animal;
  - (b) the eligible costs are the costs of the damage incurred as a direct consequence of the event that caused the damage, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking.
2. The damage to be compensated may include the following:
  - (a) damage for animals killed: the eligible costs are based on the market value of the animal killed by the protected animals;
  - (b) the material damage to the following assets: equipment, machinery, property; the calculation of the material damage must be based on the repair cost or economic value of the affected asset before the event that caused the damage; it must not exceed the repair cost or the decrease in fair market value caused by the event causing the damage, that is to say the difference between the assets's value immediately before and immediately after the event.
3. A reasonable effort from the beneficiaries is requested to mitigate the risk of distortions of competition and to provide an incentive for minimising the risk. This effort shall take the form of preventive measures, such as safety fences, which are proportionate to the risk of damage caused by protected animals in the area concerned, unless such measures are not reasonably possible.
4. Aid shall be paid directly to the undertaking concerned or to a producer group or organisation of which that undertaking is a member. Where the aid is paid to a producer group and organisation, the amount of aid shall not exceed the amount of aid to which that undertaking is eligible.
5. The aid scheme shall be established within a period of three years from the date of the occurrence of the damaging event. The aid shall be paid out within four years from that date.
6. The aid and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

## **CHAPTER IV**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### *Article 47*

#### **Repeal**



Regulation (EC) No 1388/2014 shall be repealed.

#### *Article 48*

##### **Transitional provisions**

1. This Regulation shall apply to individual aid granted before its entry into force, if the aid fulfills all the conditions laid down in this Regulation, with the exception of Article 9.
2. Any aid not exempted from the notification requirement of Article 108(3) TFEU by virtue of this Regulation or other regulations adopted pursuant to Article 1 of Regulation (EU) 2015/1588 previously in force shall be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.
3. Any individual aid granted before 1 January 2023 by virtue of any regulation adopted pursuant to Article 1 of Regulation (EU) 2015/1588 previously in force at the time of granting the aid shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) TFEU.
4. At the end of the period of validity of this Regulation, any aid schemes exempted under this Regulation shall remain exempted during an adjustment period of six months.

#### *Article 49*

##### **Entry into force and applicability**

This Regulation shall enter into force on 1 January 2023.

It shall apply until 31 December 2027.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*  
*The President*  
*Ursula von der Leyen*

## **ANNEX I**

### **Small and medium-sized enterprises (SMEs)**

#### **1. Enterprise**

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

#### **2. Staff headcount and financial thresholds determining enterprise categories**

2.1. The category of micro, small and medium-sized enterprises ('SMEs') is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

2.2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.

2.3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

#### **3. Types of enterprise taken into consideration in calculating staff numbers and financial amounts**

3.1. An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of point 3.2 or as a linked enterprise within the meaning of point 3.3.

3.2. 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of point 3.3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of point 3.3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

- (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the

total investment of those business angels in the same enterprise is less than EUR 1 250 000;

- (b) universities or non-profit research centres;
- (c) institutional investors, including regional development funds;
- (d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.

3.3. 'Linked enterprises' are enterprises which have any of the following relationships with each other:

- (a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- (b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- (c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- (d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of point 3.2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors referred to in point 3.2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

3.4. Except in the cases set out in point 3.2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

3.5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in point 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

#### 4. Data used for the staff headcount and the financial amounts and reference period

- 4.1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
- 4.2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in point 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.
- 4.3. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

#### 5. Staff headcount

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- (c) owner-managers;
- (d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

#### 6. Establishing the data of an enterprise

- 6.1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.
- 6.2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation

is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

6.3 For the application of point 6.2:

- (a) the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation;
- (b) the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of point 6.2.

6.4 Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

## ANNEX II

**Information regarding State aid exempt under the conditions of this Regulation to be provided through the established Commission IT application as laid down in Article 11**

<b>Aid reference</b>	<i>(to be completed by the Commission)</i>	
<b>Member State</b>		
<b>Member State reference number</b>		
<b>Region</b>	<b>Name of the Region(s)</b> <i>(NUTS<sup>(31)</sup>)</i>	
<b>Granting authority</b>	<b>Name</b>	
	<b>Postal address</b> <b>Web address</b>	
<b>Title of the aid measure</b>		
<b>National legal basis</b> (Reference to the relevant national official publication)		
<b>Web link to the full text of the aid measure</b>		
<b>Type of measure</b>	<input type="checkbox"/> <b>Scheme</b>	
	<input type="checkbox"/> <b>Ad hoc aid</b>	<b>Name of the beneficiary and the group</b> <b>(<sup>(32)</sup> it belongs to</b>

<sup>31</sup> NUTS – Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.

<sup>32</sup> An undertaking for the purposes of rules on competition laid down in the Treaty and for the purposes of this Regulation is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed. The Court of Justice has ruled that entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as one undertaking

Amendment of an existing aid scheme or <i>ad hoc</i> aid		Commission aid reference
	<input type="checkbox"/> Prolongation	
	<input type="checkbox"/> Modification	

Duration <sup>(33)</sup>	<input type="checkbox"/> Scheme	dd/mm/yyyy to dd/mm/yyyy
Date of granting	<input type="checkbox"/> <i>Ad hoc</i> aid	dd/mm/yyyy
Economic sector(s) concerned	<input type="checkbox"/> All economic sectors eligible to receive aid	
	<input type="checkbox"/> Limited to certain sectors: Please specify at NACE group level <sup>(34)</sup>	
Type of beneficiary	<input type="checkbox"/> SME	
	<input type="checkbox"/> Large undertakings	
Budget	Total annual amount of the budget planned under the scheme <sup>(35)</sup>	National currency ..... (full amounts)
	Overall amount of the <i>ad hoc</i> aid awarded to the undertaking <sup>(36)</sup>	National currency ..... (full amounts)
	<input type="checkbox"/> For guarantees <sup>(37)</sup>	National currency ..... (full amounts)
Aid instrument	<input type="checkbox"/> Grant/Interest rate subsidy	
	<input type="checkbox"/> Loan/Repayable advances	
	<input type="checkbox"/> Guarantee (where appropriate with a reference to the Commission decision <sup>(38)</sup> )	
	<input type="checkbox"/> Tax advantage or tax exemption	

<sup>33</sup> Period during which the granting authority can commit itself to grant the aid.

<sup>34</sup> NACE Rev. 2 – Statistical classification of Economic Activities in the European Union. Typically, the sector shall be specified at group level.

<sup>35</sup> In case of aid scheme: Indicate the annual overall amount of the budget planned under the scheme or the estimated tax loss per year for all aid instruments contained in the scheme.

<sup>36</sup> In case of an *ad hoc* aid award: Indicate the overall aid amount/tax loss.

<sup>37</sup> For guarantees, indicate the (maximum) amount of loans guaranteed.

<sup>38</sup> Where appropriate, reference to the Commission decision approving the methodology to calculate the gross grant equivalent, in accordance with Article 5(2)(c).

	<input type="checkbox"/> Other (please specify) <p>Indicate to which broad category below it would fit best in terms of its effect/function:</p> <input type="checkbox"/> Grant <input type="checkbox"/> Loan <input type="checkbox"/> Guarantee <input type="checkbox"/> Tax advantage

Indicate which of Articles 14 to 46 is used	<input type="checkbox"/> list of Articles
Aid to make good the damage caused by natural disasters (Article 44)	<p>Type of natural disaster:</p> <input type="checkbox"/> earthquake <input type="checkbox"/> avalanche <input type="checkbox"/> landslide <input type="checkbox"/> flood <input type="checkbox"/> tornado <input type="checkbox"/> hurricane <input type="checkbox"/> volcanic eruption <input type="checkbox"/> wild fire
	<p>Date of the occurrence of the natural disaster</p> <p>dd/mm/yyyy to dd/mm/yyyy</p>
Motivation	Indicate why a State aid scheme has been established or an ad-hoc aid has been granted, instead of assistance under the European



	<p><b>Maritime, Fisheries and Aquaculture Fund (EMFAF):</b></p> <p><input type="checkbox"/> measure not covered by the national operational programme;</p> <p><input type="checkbox"/> prioritisation in the allocation of funds under the national operational programme;</p> <p><input type="checkbox"/> funding no longer available under the EMFAF;</p> <p><input type="checkbox"/> other (please specify)</p>
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### **ANNEX III**

#### **Provisions for the publication of information referred to in Article 9(1)**

Member States shall organise their comprehensive State aid websites, on which the information referred to in Article 9(1) is to be published, in a way to allow easy access to the information.

Information shall be published in a spreadsheet data format, which allows data to be searched, extracted and easily published on the Internet, for instance in CSV or XML format. Access to the website shall be allowed to any interested party without restrictions. No prior user registration shall be required to access the website.

The following information on individual aid awards referred to in Article 9(1), point (c), shall be published:

- Name of the beneficiary;
- Beneficiary's identifier;
- Type of enterprise (SME/large) at the date of granting;
- Region in which the beneficiary is located, at NUTS level II<sup>39</sup>;
- Sector of activity at NACE group level<sup>40</sup>;
- Aid element, expressed as full amount in national currency<sup>41</sup>;
- Aid instrument<sup>42</sup> (grant/interest rate subsidy, loan/repayable advances/reimbursable grant, guarantee, tax advantage or tax exemption, other (please specify));
- Date of granting;
- Objective of the aid;
- Granting authority.

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<sup>39</sup> NUTS – Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.

<sup>40</sup> Council Regulation (EEC) No 3037/90 of 9 October 1990 on statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1).

<sup>41</sup> Gross grant equivalent. For fiscal schemes, this amount can be provided by the ranges set out in Article 9(2).

<sup>42</sup> If the aid is granted through multiple aid instruments, the aid amount shall be provided by instrument.

## **ANNEX IV**

### **Specific maximum aid intensity rates**

Row	Specific category of operation	Maximum aid intensity rate
1	<p>The following operations contributing to the implementation of the landing obligation referred to in Article 15 of Regulation (EU) No 1380/2013</p> <ul style="list-style-type: none"><li>– operations improving size selectivity or species selectivity of fishing gear;</li><li>– operations improving the infrastructure of fishing ports, auctions halls, landing sites and shelters in order to facilitate the landing and storage of unwanted catches;</li><li>– operations facilitating the marketing of unwanted catches landed from commercial stocks, in accordance with point (b) of Article 8(2) of Regulation (EU) No 1379/2013.</li></ul>	<p>100 %</p> <p>75 %</p> <p>75 %</p>
2	Operations aimed at improving the health, safety and working conditions on board fishing vessels	75 %
3	Operations located in the outermost regions	85 %
4	Operations located in Greek islands which according to national law have been qualified as remote and in the Croatian islands of Dugi Otok, Vis, Mljet and Lastovo	85 %
5	Operations related to small-scale coastal fishing	100 %
6	Operations which fulfil all of the following criteria: <ul style="list-style-type: none"><li>(a) they are of collective interest;</li><li>(ii) they have a collective beneficiary;</li><li>(iii) they have innovative features or ensure public access to their results</li></ul>	100 %
7	Operations implemented by producer organisations, associations of producer organisations or interbranch organisations	75 %
8	Operations supporting sustainable aquaculture	60 %
9	Operations supporting innovative products, processes or equipment in fisheries, aquaculture and processing based on Articles 14, 23, 26, 28,	75 %

	30, 31 and 3	
10	Operations implemented by organisations of fishers or other collective beneficiaries	60 %
11	Financial instruments	100 %