

PROPOSALS ON EXEMPTIONS AND *DE MINIMIS* FOR FISHERIES AND AQUACULTURE

A. REVISION OF THE BLOCK EXEMPTION AID FOR FISHERIES AND AQUACULTURE

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 (FIBER).

— We understand that State aid rules should be broader than the EMFAF rules. Why is the new FIBER draft text one-to-one copying the content of the current EMFF? The EMFAF is no longer structured on a measure-by-measure basis. We are in favour of a similar approach as in the GBER, **aid measures should be structured by activity** not by sub-sector. We are in favour of the general horizontal themes (training and advice service, research and development, energy and resource savings, environment) to be similarly formulated for catchers, processors and aquaculturers. Competition in training services does not depend on the trainee. For example, research and development aimed at the benefit of fisheries should be a separate part of FIBER, similar to the Agricultural Block Exemption (ABER). If not, is the General Block Exemption Regulation (GBER) applicable?

— We are in favour of a single, **flexible crisis measure for operational action**, not only natural disasters and weather conditions, but broader ones, e.g. economic damage to military activities.

— We are in favour of adding a to FIBER that the **non-fisheries project of a medium-sized enterprise as CLLD would be part of the FIBER**. We are in favour of a coherent approach to ABER art 50-51 (LEADER LAG's non-agricultural activities).

— What is the logic of the **aid intensity** mentioned in paragraph at the end of each aid measure? Why is there always 50 %, although the percentage may be different in Annex IV, it is a bit confusing (e.g. Art. 31(4))? Why does Article 18 indicate a specific upper limit (EUR 75 000) which is unique? In ABER, support rates are higher, we are in favour of a coherent approach.

— **Article 1 (4) (a) Scope** — it seems as there would be a possibility to grant State aid to another Member State company? Can it be understood that FIBER cannot be granted if there is a requirement that registration in the EE Commercial Register is obligated?

— **Article 7 (1) Aid intensity and eligible costs** - *Value added tax (VAT) shall not be eligible for aid, except where it is non-collectable under national legislation* — why VAT is not eligible in FIBER? In the EMFAF together with the CSF (Common Provisions on EU Funds), VAT is eligible under CSF Article 64(1)(c) of Project up to 5 million? We are in favour of a coherent approach.

— **Article 7 (3)-(5)** - what kind of activities are possible under these paragraphs? How these points apply, for example fuel tax exemption?

— There should be reference to the Fuel Directive 2003/96. Is it missing because new legislation is coming under Fit For 55?

— **Article 15 Aid for advisory services** — we are in favor to give aid to the advisory service provider rather than to the person asking for advice; we are in favour of coherence with ABER, with an aid rate of 100 %.

— **Article 18 (1) (a) and (2) Aid to facilitate diversification and new forms of income** — are catering and tourism in accordance with Article 42 of the Treaty? Does *fisher's core fishing business* mean that fishing is person's main basic income source?

— **Article 19 Aid to improve health, safety and working conditions for fishers** — there are several incompatibilities with the EMFAF in the lists of aid applicable details, omit those lists of details in the paragraphs. We are in favour of '*aid must not rise the ceiling*'.

— **Article 20 Aid to mutual funds for public health crises, adverse weather conditions and environmental incidents** — we are in favour of an operational, broader crisis measure, including, for example, storage aid, compensation for sales turnover losses due to unprecedented outside influence. A mutual fund is not a reality and workable solution, as covid measures showed.

— **Article 25 Aid to improve energy efficiency and to mitigate the effects of climate change** — why is the energy efficiency of vessels and gear only? The energy efficiency theme is horizontal and should cover all sub-sectors (catchers, processors, aquaculturers) together, rather than being split between sub-sectors and under different conditions. Is it possible to get a new boat under this aid?

— **Article 27 Aid to fishing ports, landing sites, auction halls and shelters** — NACE (EMTAK in Estonia) code for landing fish is not available; rather, it is generally a port service, e.g. NACE code 52241 Cargo handling (in section transport and warehousing), including, in general, loading and unloading of vessels. Since the general port service is not fishing under Article 42 of the Treaty, it is not possible to regulate port services in FIBER.

— **Article 29 General conditions (fostering sustainable aquaculture activities)** — do points (a)-(e) apply individually or must all be combined? Could after point (a) be "or"? In point c, delete "future" because it is unclear what is meant. Delete paragraph 2 as illogical and contrary to Article 30(b)(ii) where a more flexible approach is.

— **Article 32 Aid for investments increasing productivity in aquaculture** — Why are there differences in the provision of advice to a fisherman or a aquaculturor? One is forbidden to get advice on the business plan, the other is allowed? The activity to be supported should be advisory service.

— **Article 35 Encouraging new aquaculture farmers practising sustainable aquaculture** — The term '*aquaculture farmers entering the sector*' should be worded as of '*entrepreneurs entering the sector*' in Article 29 (b) or otherwise coherently, to be clear that the subject is person not engaged in aquaculture ever before.

— **Article 37 Aid to aquaculture providing environmental services** — what environmental services are intended for in this Article? Do points (a) and (b) coexist? In this case, the word "and" could appear at the end of point (a). In accordance with point (a), is it possible to build a new fish farm without a business plan?

— What is the logic of the list of conditions of **Articles 36, 37, 39, 40, 41(1)(a) and (b)**?

— **Article 40 Aid for aquaculture stock insurance** — does this article provide aid for the creation of such an insurance service for aquaculturers? For example, to mitigate a market failure where insurance companies do not insure aquaculture animals or equipment or ponds etc, but disease/some other unforeseen events occur and stocks die in such a way that they cannot be for human consumption. Estonia has established a State aid scheme to compensate for damage caused by the control of animal diseases in farm animals.

— **Article 41 Aid for marketing measures** — what is meant by point (vi) of ‘*formulation of standard contracts for SMEs which comply with EU law*’? Paragraph 2 excludes commercial brands - how to understand it? A brand is allowed in ABER. We are in favour of a coherent approach.

— **Article 42 Aid for the processing of fishery and aquaculture products** — why are the possibilities of aid in processing narrower than in other sub-areas (catchers, aquaculturers)? We are in favour of a coherent approach.

— **Article 43 Aid for collection, management, use and processing of data in the fisheries sector** — data collection is already a national duty under the Common Fisheries Policy. Why the data-related state aid is possible?

— **Article 44-45 Aid to make good the damage caused by natural disasters, Aid to make good the damage caused by adverse weather conditions which can be assimilated to a natural disaster** - aid involving only natural disasters or extreme weather conditions is unambitious, operational crisis assistance is needed to mitigate the effects of any unexpected natural, economic or military crisis.

— **Article 46 Aid to compensate for the damage caused by protected animals** — delete the word ‘protected’, since it is extremely difficult to prove whether the stock/property was violated by any predator or bird of prey or by a protected specimen. The aid could make it possible to make good the damage caused by animals and birds.

B. REVISION OF DE MINIMIS AID FOR FISHERIES AND AQUACULTURE

Draft Commission Regulation (EU) .../... of XXX amending Regulation (EU) No 717/2014 as regards its period of application and the maximum cumulative amounts of *de minimis* aid.

Estonian authorities propose to revise the text so that the *de minimis* aid, the ceiling of €30,000 applicable to the fishing and aquaculture sector is raised as for other agriculture/food businesses.

We believe that **increasing the total amount of de minimis aid to fisheries undertaking over a period of three years** would not unduly distort competition or trade within the European Union. De minimis aid may be granted up to EUR 200 000 per undertaking over three consecutive fiscal years. The cap of EUR 200 000 applies to the total de minimis aid granted from all different sources. The de minimis threshold for undertakings in the fisheries sector is set at EUR 30 000 over a period of three years per undertaking.

Currently, the Commission’s de minimis aid in the fisheries and aquaculture sector, Regulation (EU) No 717/2014, provides that the total amount of de minimis aid granted by a Member State to a single undertaking in the fishery and aquaculture sector may not exceed EUR 30 000 over any period of three fiscal years.

Small and medium-sized enterprises are an important factor in economic development. For example, companies operating in the fisheries and aquaculture sector face difficulties in obtaining capital or credit and can only provide limited guarantees or require small additional capital, which is economically unattractive for commercial banks due to disproportionate transaction costs. There are also undertakings in the sector which generally require a higher amount of loans to make larger investments at the same time, but whose company’s cash flows are not sufficient to quickly recoup the investment or have insufficient guarantees. As the productivity of fishing enterprises is spread over a longer period, the return period for investments is also longer. This means that companies often need a longer repayment period for investment loans so as not to get into payment difficulties. In order to mitigate such market failures, access to debt finance issued by the Rural Development Foundation

has been granted. It will continue to be important to ensure that operators in the fisheries and aquaculture sector have access to the necessary amounts of such financing. The granting of such loans may give rise to de minimis aid and the granting of the loan and the amount of the loan are subject to the de minimis ceiling. Therefore, in the case of large-scale investments, the de minimis threshold of EUR 30 000 per undertaking over a period of three years for undertakings in the fisheries sector may not be sufficient in the future. The market is also significantly less distorted between beneficiaries and non-beneficiaries and allows significantly more projects to be supported, as repayments of loans can be redirected to the sector.

Pursuant to Commission Regulation (EU) No 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, known as the 'horizontal de minimis rate', the total amount of de minimis aid granted by a Member State to a single undertaking may not exceed EUR 200 000 over any period of three fiscal years. The Commission has found here that it is appropriate to maintain the ceiling of EUR 200 000 for de minimis aid granted by a Member State to one undertaking over a period of three years. This ceiling remains necessary to ensure that any measure falling within the scope of this Regulation cannot be considered to affect trade between Member States or to distort or threaten to distort competition. Taking into account the Commission's position on the horizontal de minimis aid rate (EUR 200 000), **an increase in the total amount of de minimis aid to fisheries** would also make it possible, if necessary, to provide the necessary aid more operationally without distorting competition and trade.