

**Contribution of the Czech Republic to the public consultation on the 1<sup>st</sup> draft Commission fishery and aquaculture Block Exemption Regulation (“FIBER”) and the 1<sup>st</sup> draft Guidelines for State aid in the fishery and aquaculture sector (“FISH Guidelines”)**

**Comments regarding the content of FIBER:**

- **On Art. 1(2):** In the list of exemptions to which the FIBER applies independently of the size of the beneficiary of the aid, the numbering of the articles of the FIBER should be corrected as follows to correspond to the relevant categories of exceptions: “...*to make good the damage caused by natural disasters in accordance with Article 44 or by certain adverse weather conditions in accordance with Article 45, independently of the size of the beneficiary of the aid*”. The incorrect numbering is in both the Czech and English language versions of the draft Regulation.
- **On Art. 1(2):** We propose to include among the exemptions to which the FIBER applies independently of the size of the beneficiary of the aid also **Art. 46 (Aid to compensate for the damage caused by protected animals)**, which, together with the other categories of aid enlisted, forms a coherent logical framework of support instruments for risk and crisis management.
- **On Art. 1(3)a:** We are of the opinion that *aid to compensate for the damage caused by protected animals* (Art. 46) should be included among the exceptions too as it is in principle the same type of compensatory aid as the other listed exceptions. There are already exceptions from the undertakings in difficulty rule for *aid to compensate for the damage caused by protected animals* in drafts of similar State aid instruments (draft FISH Guidelines – point (11) as well as draft ABER – Art. 1(5)(g)(iii)).
- **On Art. 2:** For the sake of greater legal certainty and clarity, we recommend that the definitions of the following terms be added to the listed definitions: “**fishery and aquaculture sector**” and “**large enterprises**”, which are included in the draft FISH Guidelines (Part I, Chapter 2, Section 2.5(h) and (m)) and which are also included (analogically to the sector) in the ABER. For the sake of consistency with these rules and regulations, we consider it appropriate to add the above referred to definitions to the new FIBER.
- **On Art. 9(1)(c):** We strongly disagree with the proposed reduction of the transparency threshold for the publication of aid in the TAM system to EUR 10 000. In view of the long-term trend of rising prices, which are logically reflected in the amount of eligible costs, this step would in practice bring a disproportionate increase in the administrative burden since information on almost each and every aid granted would have to be published. On top of that, the proposed limits are significantly lower than the limit for the relevant *de minimis* aid (EUR 30 000), which is exempted from this obligation. For the reasons above, we are convinced that the **current publication threshold (EUR 30 000)** should be maintained, because it represents a balanced compromise both in terms of transparency of the State aid and reasonable level of administrative burden for the granting authorities.

As concerns the entering of the aid in the TAM, it would be desirable to simplify the procedural steps in particular (it should be possible to enter and approve as well as publish the aid under the same role). We would also appreciate the possibility to import the data in the xml format. We also request that the option be introduced to integrate the Member

States' information systems into the transparency module by calling a Web Service. **This comment is essential.**

- **On deletion of the existing Art 45 of the FIBER** (Tax exemptions and reductions in accordance with Directive 2003/96/EC): **We welcome shifting this aid under the General Block Exemption Regulation (GBER)**, but due to the proposed removal of aid for tax exemptions and reductions in accordance with Directive 2003/96/EC from the FIBER **we call upon the Commission to ensure that this category of aid for undertakings active in the fishery and aquaculture sector is** in the framework of the announced alignment included in the scope of Art. 44 of GBER, namely already with effect from 1 January 2023.
- **On Art. 46(2)(a):** We believe that the proposed category of aid should target not only the cases where damage is caused by direct killing of farmed animals, but also to cases of damage caused by attacks by protected animal species. For example, the great cormorant (*Phalacrocorax carbo*) during its predation damages only a part of the fish stock, which dies as a result of subsequent secondary diseases, and thus fish farmers also suffer production losses caused by protected animal species. Therefore, we propose that the wording of point (a) be amended as follows: *“damage for animals killed **and damaged**: the eligible costs are based on the market value of the animals killed **or damaged** by protected species”*.
- **On Art. 46(2)(b):** For the sake of more specific list of eligible types of (damaged) property, we propose to add to this list also hydraulic structures as follows: *“the material damage to the following assets: equipment, machinery, property **and hydraulic structures**”*.

#### **Comments on the Czech version of the FIBER:**

- **On Art. 1(2)(e) and recital 13 in the Preamble:** In order to align the condition for an outstanding recovery order with its wording in the other established rules and regulations (AGRI and FISH Guidelines) we request to specify in the Czech version that it concerns an **outstanding** recovery order (the translation should be thus: *“**doposud neuhrazený příkaz k navracení podpory**”*).
- **On Art. 2(10) and recital 29 in the Preamble:** We request that the natural disaster of “floods” be translated into the Czech language as **“povodně”**, not as “záplavy” which is the term used here. In the Czech Republic, these two terms have different meaning. The term “záplava” is defined as the formation of a consistent body of water which for a certain period of time stands or flows at the given place and can be caused also by other sources than water courses, e.g. by rainfall or snowmelt, when the soil is unable to absorb water quickly enough and water finds its own runoff. Whereas “povodeň” means inundation of small or larger territorial units by water from water courses or dams overflowing their banks or causing their failure. **This comment is essential.**
- **On Art. 45(3):** In regard to the specific features of the fishery and aquaculture sector, we request that the term “ice” be translated in the Czech version as **“led”**, not “námraza”.

### **Comments on the content of the FISH Guidelines:**

- **On point 27 (a)(ii):** We welcome the possibility to include the aid in the form of reductions in taxes under Directive 2003/96/EC among the types of aid that do not require notification to the Commission under Article 108(3) TFEU. However, as part of the ongoing revision of the General Block Exemption Regulation (GBER), the scope of this measure (Art. 44 of GBER - *Aid in the form of reductions in environmental taxes under Directive 2003/96/EC*) will have to be extended to allow fisheries and aquaculture undertakings to absorb this aid with effect already from 1 January 2023.
- **On point 30:** For the sake of clarity and greater legal certainty, we recommend to add to the definitions in Part I, Chapter 2, Section 2.5. also the definition of “*start of works*” (see the draft FIBER, Art. 2(14) since point 50 of the draft FISH Guidelines uses this term without defining it.
- **On point 47:** We request that the paragraph be amended as follows: “... *the amount of aid needed to carry it out, or the method by which the amount of aid is to be calculated, and the eligible costs*”.
- **On point 48:** As concerns referring to a counterfactual scenario or an alternative project or activity and submitting of documentary evidence, we recommend considering whether these documents should not be required only for investment projects since in the case of e.g. welfare measures, where extra-costs are covered, to present them is very burdensome for the beneficiary and the cost of administration often exceeds the requested aid.
- **On point 49:** In practice we have often been confronted with the issue of ambiguity of this condition: “*A counterfactual is credible, if it is genuine and relates to the decision-making factors...*” and we request that the criteria for assessing the genuineness are specified. We would like to ask the Commission to further explain the meaning of this sentence and its requirement.
- **On point 109: We strongly disagree with the proposed reduction of the transparency threshold for the publication of aid in the TAM system to EUR 10 000.** In view of the long-term trend of rising prices, which are logically reflected in the amount of eligible costs, this step would in practice bring a disproportionate increase in the administrative burden since information on almost each and every aid granted would have to be published. On top of that, the proposed limits are significantly lower than the limit for the relevant *de minimis* aid (EUR 30 000), which is exempted from this obligation. For the reasons above, we are convinced that the **current publication threshold (EUR 30 000)** should be maintained, because it represents a balanced compromise both in terms of transparency of the State aid and reasonable level of administrative burden for the granting authorities.  
  
As concerns the entering of the aid in the TAM, it would be desirable to simplify the procedural steps in particular (it should be possible to enter and approve as well as publish the aid under the same role). We would also appreciate the possibility to import the data in the xml format. We also request that the option be introduced to integrate the Member States' information systems into the transparency module by calling a Web Service. **This comment is essential.**

- **On point 153:** It is unclear what is the difference between “*heavy and persistent rainfall*” and “*heavy and persistent rain*” in the list of adverse climatic events or adverse climatic conditions.
- **On point 178:** We request to remove point (b) since we disagree with making the granting of aid for emerging diseases conditional on taking out insurance or making a contribution to mutual funds. These are difficult risks to insure and we do not want to place additional requirements on aid applicants.
- **On point 214:** According to the current proposal, the new FISH guidelines are to be applicable from 1 January 2023, with the adjustments to the existing aid schemes to be carried out by 30 June 2023 at the latest. Practically speaking, this short period of time is inadequate and can collide with the ongoing administration of aid schemes, announced every year, which would result in changing the conditions for applicants in the middle of the grant period. In order to ensure maximum legal certainty for both applicants and providers and compliance with the other State aid rules, we request that **a one-year period for the adjustment of the existing schemes** with the deadline of 31 December 2023 is provide for. For example, the new Guidelines on State aid for climate, environmental protection and energy for 2022 (C(2022) 481 final) set the deadline for the adjustment at 31 December 2023. A one-year period was also set in the currently applicable AGRI Guidelines. **This comment is essential.**

#### **Comments on the Czech version of the FISH Guidelines:**

- **On point 5:** The beginning of the second sentence should read “*Společná rybářská politika*” (“Common Fisheries Policy”) instead of “*Společná zemědělská politika*” (“Common Agricultural Policy”).
- **On point 30(a):** The translation into the Czech language is not partly inconsistent with the English original. Therefore, we request that it be replaced by the following wording which is used in the same definition in the draft new FIBER (see Art. 2(2) of the FIBER): „*podporou rozumí jakékoliv opatření splňující všechna kritéria stanovená v čl. 107 odst. 1 SFEU;*“ (“aid” means any measure fulfilling all the criteria laid down in Article 107(1) TFEU;“).
- **On point 30(c):** We recommend translating the term “*aid intensity*” into the Czech language as “*intenzita podpory*” so that its translation is consistent with the translation used in the FIBER and similar rules and regulations (ABER, AGRI Guidelines).
- **On points 133 and 140:** In the list of natural disasters included in both points, the English term “*floods*” is incorrectly translated as “*záplavy*” in the Czech translation of the draft FISH Guidelines. However, the correct translation should be “*povodně*”, as already used in point 74 of the currently applicable FISH Guidelines and as previously confirmed to us by the EC itself (DG MARE). We therefore request that in points 133 and 140 of the draft new FISH Guidelines the term “*floods*” be translated into the Czech language as “*povodně*”. **This comment is essential.**
- **On point 153:** Contrary to our comment on points 133 and 140 above, in case of **adverse weather conditions and adverse climatic events** the English term “*floods*” should be translated into the Czech language as “*záplavy*”. In the Czech Republic, these two terms have different meaning. The term “*záplava*” is defined as the formation of a consistent body

of water which for a certain period of time stands or flows at the given place and can be caused also by other sources than water courses, e.g. by rainfall or snowmelt, when the soil is unable to absorb water quickly enough and water finds its own runoff. Whereas „*povodeň*” means inundation of small or larger territorial units by water from water courses or dams overflowing their banks or causing their failure. Therefore we request the term „*floods*” to be translated in to the Czech language as „*povodně*” for **natural disasters** whereas as „*záplavy*” for **adverse weather conditions and adverse climatic events**. **This comment is essential.**

- **On point 153:** In the list of adverse weather conditions under point 153, the term „*mráz*” is used twice in the Czech version for two different adverse weather conditions, which are distinguished as „*frost*” and „*ice*” in the English version of the point 153. We request that the term „*frost*” is translated as „*mráz*” and the term „*ice*” as „*led*”.
- **On point 181(f):** The word „*zemědělského*” („*agricultural*”) preceding the word „*podniku*” („*holding*”) should be deleted.

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- Finally, we would appreciate to extend EC platform „eWiki” for fisheries and aquaculture State aid rules.