

State aid to fisheries & aquaculture

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DG FISH

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I. State aid

Definition:

Any aid granted by a Member State or through state resources in any form whatsoever which distorts or threatens to distort competition & inter State trade by favouring certain undertaking of production of certain goods in so far as it affects trade between Member States [Art. 87(1) EC Treaty]

Elements:

- *advantage: "favouring"*
- *by a Member State or through State resources*
- *selectivity: "certain undertakings / production of certain goods"*
- *distortion or risk of distortion of competition*
- *effect on inter-State trade*

Form of aid:

- *capital transfers, reduced interest loans, state guarantee, interest subsidies, etc.*

II. General Framework

- Art. 87-89 EC Treaty
- Procedural rules:
 - Council Regulation (EC) No 659/1999
 - Commission Regulation (EC) No 794/2004
- Rules applicable to the fisheries and aquaculture sector

Art. 19 of Regulation (EC) No 2792/1999

- **Art. 87-89 EC**: applicable to fisheries & aquaculture sector (1)
- **Exemption**: obligatory financial contribution by MS to measures co-financed by the Community (2)
- **BUT**: public finance exceeding the provisions on the obligatory financial contributions do fall under Art. 87-89 ECT (3)

Guidelines

for the examination of State aid to fisheries and aquaculture

General Principle:

- *Aid must be in accordance with the objectives of the CFP (p.3.1)*
- *No aid should be granted for activities which have already been undertaken by beneficiary (p.3.4)*
- *Aid may not be protective (p. 3.5.)*
- *Export aid ≠ incompatible (p.3.6)*
- *No aid without an obligation serving the CFP objectives (p.3.7)*
- *No operating aid (p.3.7)*
- *Guidelines on national regional aid ≠ fishery sector*
- *Conditions under Regulation (EC) No 2792/1999*

Categories of aid: *modernisation and renewal of fleet; temporary cessation of fishing activities; compensation for damages due to natural disasters or exceptional circumstances; aid not covered by Reg. 1595/2004*

Block exemption I

Regulation (EC) No 1595/2004

Reasons: *aid is considered to be compatible with the common market and shall not be subject to the notification requirements*

Aid exempted from prior notification:

- *producer groups or producer associations*
- *protection and development of aquatic resources*
- *innovative measures and technical assistance*
- *investments for promotion and advertising of fishery products*
- *investments in the processing and marketing of fishery products*
- *investments in fishing port facilities*
- *permanent cessation of fishing activities*
- *investments in the aquaculture and inland fishing sectors*
- *socio-economic measures*

Block exemption II

Conditions:

- *Small and medium-sized enterprises (SMEs):*
 - *have fewer than 250 employees, and*
 - *an annual turnover not exceeding EUR 40 million, or*
 - *an annual balance-sheet total not exceeding EUR 27 million*
 - *conform to the criterion of independence as defined in paragraph 3 of Art. 1 of Regulation (EC) No 70/2001*
- *eligible expenses do not exceed EUR 2 million for individual project, or aid does not exceed EUR 1 million per beneficiary per year (Art. 1)*
- *aid may not be cumulated (Art. 15)*
- *obligation to submit a summary information to the Commission before the scheme enters into force & to keep records (Art. 16)*
- *aid complies with the conditions for categories of aid (reference to Reg. 2792/1999)*

De minimis rules

Regulation (EC) No 1860/2004

Reasons: *aid which is considered not to meet all the criteria of Article 87 (1) EC, therefore exempted from notification procedure*

Conditions:

- *national aid of up to € 3,000 per one enterprise over any period of 3 years (Art. 3(2))*
- *cumulative amount should not exceed the value as set out per Member State in Annex II (Art. 3 (2))*
- *obligation to inform the beneficiary of de minimis character of aid (Art. 4(1))*
- *obligation by Member State to keep registers & detail records for 10 years (Art. 4(3))*

Further Information

State aid website at :

<http://europa.eu.int/comm/fisheries>