



## EUROPEAN COMMISSION

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PUBLIC VERSION

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**Subject: State aid – SA.55760 (2020/N) – Denmark  
Extension of the Danish tax deduction scheme to include research vessels**

Excellency,

### 1. PROCEDURE

- (1) By electronic notification of 18 May 2020, following pre-notification exchanges, the Danish authorities notified to the Commission, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (hereinafter ‘TFEU’), the extension of the existing Danish tax deduction scheme for seafarers (“the existing scheme”) to include seafarers working on board research vessels (“the extension” or “the notified scheme”).
- (2) The scheme “Fiscal measures applicable to seafarers on board Danish ships” was originally approved by the Commission on 13 November 2002 in case NN 116/1998<sup>1</sup> and provided for income tax exemptions and income tax deductions for seafarers employed on board ships registered in the Danish International Ship Register (“the *DIS Register*”) and the Danish Register for Shipping (“the *DAS Register*”) <sup>2</sup>. An amendment of that scheme was approved by the Commission on

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<sup>1</sup> Commission decision of 13 November 2002 in case NN 116/1998, OJ C 28 of 31 January 2004, p. 2.

<sup>2</sup> See in particular recitals 18 and 20 of the Decision in case NN 116/1998.

His Excellency Udenrigsminister Jeppe KOFOD  
Minister for foreign affairs  
Asiatisk Plads 2  
DK-1448  
København, Denmark

21 March 2012<sup>3</sup>. A further prolongation until 31 December 2021 was finally approved in 2018<sup>4</sup>.

- (3) Denmark exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,<sup>5</sup> and to have this Decision adopted and notified in English.

## 2. DESCRIPTION OF THE MEASURE

### 2.1. The scope of the existing scheme

- (4) The Danish authorities explained that the existing scheme is a partial income tax reduction applicable to seafarers who meet the conditions set out under the scheme. Such reduction enables ship owners to reduce their wage costs.
- (5) Pursuant to the existing scheme, seafarers working on board Danish or EU/EEA flagged vessels may individually deduct an amount of DKK 56,900<sup>6</sup> from their annual taxable income before the calculation of Municipal tax and Church tax<sup>7</sup>, provided that the ship exclusively carries out maritime transport activities. If the ship has a gross tonnage of 500 tons or more, the tax deduction is increased to an amount of DKK 105,000<sup>8</sup>. If the conditions for applying the tax deduction are not met throughout the entire year (i.e. 365 days), the deductible amount is proportionally reduced.
- (6) To ensure compliance with the Community guidelines on State aid to maritime transport (hereinafter “the Maritime Guidelines”)<sup>9</sup>, an amendment limiting the scheme to seafarers working on board of EU or EEA flagged ships was adopted by the Danish Parliament on 26 April 2018. Such amendment entered into force on 1 July 2018.
- (7) The Danish authorities explained that the existing scheme applies to both Danish tax resident seafarers and foreign tax resident seafarers. In order to benefit from

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<sup>3</sup> Commission decision of 21 March 2012 in SA.33651 (2011/N), OJ C 142 of 22 May 2012, p. 3.

<sup>4</sup> Commission decision of 17 May 2018 in SA.46852 (2016/N), OJ C 406 of 9 November 2018, p. 4.

<sup>5</sup> Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

<sup>6</sup> Corresponding to approx. EUR 7,633, see [https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro\\_fr](https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro_fr), exchange rate on 16 June 2020.

<sup>7</sup> The Danish authorities explained that according to the general rules of income taxation in Denmark, income taxation may be divided into several categories, including State tax, Municipal Tax, Church Tax and other labour market contributions.

<sup>8</sup> Corresponding to approx. EUR 14,086, see [https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro\\_fr](https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro_fr), exchange rate on 16 June 2020.

<sup>9</sup> Commission communication C(2004) 43 — Community guidelines on State aid to maritime transport, OJ C 13, 17.1.2004, p. 3–12

the scheme seafarers have to work on board an eligible Danish or EU/EEA flagged vessel.

## **2.2. The envisaged extension of the scheme**

- (8) The Danish authorities submitted that seafarers working on board research vessels are not entitled to the applicable tax deduction under the existing scheme which applies only to vessels that exclusively carry out commercial transport of goods and persons by sea. Consequently, research vessels are not able to compete on the same conditions with similar vessels registered outside the EU/EEA.
- (9) The Danish authorities explained that the envisaged extension is aimed at applying the tax deduction scheme to cover seafarers working on board research vessels with a gross tonnage of 20 tons or more registered in Denmark or another Member State of the EU or EEA.
- (10) In this regard, the term ‘research vessels’ refers to vessels used for naval research and marine exploration on open sea. These vessels may be individually equipped and carry out various activities, such as exploration for oil and gas in the subsea, investigating the effects of global warming for the marine environment, pollution in an area, reefs, historic wrecks etc.
- (11) The envisaged extension will apply to both Danish tax resident seafarers and foreign tax resident seafarers. In order to benefit from the envisaged extension seafarers have to work on board an eligible Danish or EU/EEA flagged vessel.
- (12) The Danish authorities confirmed that the envisaged extension does not affect the substance of the existing scheme and merely constitutes an extension of its scope. The existing scheme will therefore remain unaltered with respect to registration requirements and the other conditions for applying the scheme.
- (13) The Danish authorities also indicated that the envisaged extension does not concern seafarers working on board vessels providing scheduled passenger services between ports of the Community as well as towage and dredging activities.
- (14) In addition, the Danish authorities submitted that the research vessels in question share a significant number of characteristics with the vessels carrying out maritime transport.
- (15) The activities carried out by research vessels require qualified and trained seafarers, with similar qualifications as those working on board traditional maritime transport vessels.
- (16) In particular, in order to be able to operate research vessels and their scientific instruments and equipment, the vessel crew must be qualified and trained to the necessary standards. Also, a high-quality workforce is needed for the newest generation of research vessels that will be working with increasingly more complex equipment and data standards, in difficult environments such as in the deep sea and polar regions.

- (17) In addition, the qualifications of the crew working on board such vessels must comply with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW)<sup>10</sup>.
- (18) Moreover, seafarers working on board research vessels are governed by the same labour laws as other seafarers, including with regard to the application of the Maritime Labour Convention (MLC)<sup>11</sup>.
- (19) As concerns international competition, the Danish authorities underlined that research vessels operate in a global market and face similar challenges, in terms of global competition and relocation of on-shore activities, as other areas of the EU maritime transport sector. The Danish authorities explained that currently there is a high demand for seafarers, which entails an increase in global competition. However, at present research vessels are not able to offer the same attractive economic conditions as vessels conducting commercial transport of passengers or goods. In principle, this competitive disadvantage could lead to a situation in which research vessels will be registered in ship registries outside the EU/EEA in order to be able to offer more attractive framework conditions to employ seafarers and therefore continue their activities. This would potentially have an adverse impact in a longer-term perspective with regard to maintaining the research vessels' contribution to maritime know-how and competences.
- (20) Denmark noted that other EU member states and third countries also operate research vessels, which demonstrates that the market is subject to international competition. Similar research vessels are, *inter alia*, operated from the United Kingdom, Germany, the Netherlands and the US. According to European Marine Board's position paper 25 on Next Generation European Research Vessels<sup>12</sup>, in 2019, there were around 99 research vessels operated by 62 operators in 23 different European countries.
- (21) In addition, the Danish authorities explained that the research vessels at issue are subject to the same operational and safety requirements as vessels dedicated to maritime transport. In fact, they have to comply with the technical standards imposed by the International Convention for the Safety of Life at Sea (SOLAS)<sup>13</sup> and International Convention for the Prevention of Pollution from Ships (MARPOL)<sup>14</sup>.

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<sup>10</sup> The STCW Convention was adopted in London in 1978 by conference at the International Maritime Organization (IMO).

<sup>11</sup> 2006 Maritime Labour Convention of the International Labour Organization.

<sup>12</sup> Next Generation European Research Vessels: Current Status and Foreseeable Evolution. Heymans, JJ., Kellett, P., Viegas, C., Alexander, B., Coopman, J., Muñiz Piniella, Á. [Eds.] Position Paper 25 of the European Marine Board, Ostend, Belgium. 140pp. ISBN: 978-94-92043-79-5 DOI: 10.5281/zenodo.3477893, available at [https://www.marineboard.eu/sites/marineboard.eu/files/public/publication/EMB\\_PP25\\_Research\\_Vessels\\_Web\\_v10\\_0.pdf](https://www.marineboard.eu/sites/marineboard.eu/files/public/publication/EMB_PP25_Research_Vessels_Web_v10_0.pdf)

<sup>13</sup> International Convention for the Safety of Life at Sea (SOLAS), adopted on 1 November 1974 at IMO.

<sup>14</sup> International Convention for the Prevention of Pollution from Ships (MARPOL), adopted on 2 November 1973 at IMO.

- (22) In this regard, the Danish authorities noted that in Denmark the typical research vessel has to be registered as a cargo vessel. In accordance with the Danish Act on Safety at Sea and its associated orders, this means that research vessels have to adapt and fulfil the exact same technical and operational standards as other cargo vessels (such as container ships, supply ships, bulk carriers etc.) Moreover, they undergo the same procedures regarding surveys and certifications as other cargo ships.

### **2.3. Objectives of the scheme**

- (23) The Danish authorities indicated that the objective of the notified scheme is to improve the competitiveness of the research vessels and therefore the sector in order to retain activities and support the development of employment of European seafarers and know-how within the EU/EEA.
- (24) The Danish authorities underlined that the demand for seafarers has increased significantly over the past years. This resulted in increased competition on seafarers between ship owners. This competitive situation makes it crucial for ship owners to be able to offer attractive economic conditions in order to attract and employ the seafarers required for efficiently continuing their activities.
- (25) The Danish authorities noted that the research vessels in question contribute to the fulfilment of the basic objectives of the Maritime Guidelines as maritime transport vessels, particularly in terms of maintaining and improving maritime know-how and expertise in the EEA.

### **2.4. Aid impact and volume**

- (26) The Danish authorities indicated that the estimated annual amount of foregone tax revenues due to the envisaged extension is DKK 2.000.000<sup>15</sup>.
- (27) The Danish authorities estimated that at present approximately 13 Danish vessels will qualify as research vessels.
- (28) In addition, the Danish authorities estimated that approximately 104 seafarers may become able to apply the tax deduction based on the envisaged extension.

### **2.5. Legal basis**

- (29) The Danish authorities indicated that the legal basis of the envisaged extension is section 3(5) of the Act on the Taxation of Seafarers (Consolidated Act on the Taxation of Seafarers No. 131 of 7 February 2020 (“Act”), as amended by Act No. 1583 of 27 December 2019 (“(...) Extension of the seafarers’ allowance to seafarers working on board research and marine survey vessels etc.”))<sup>16</sup>.

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<sup>15</sup> Corresponding to approx. EUR 268,298, see [https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro\\_fr](https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro_fr), exchange rate on 16 June 2020.

<sup>16</sup> Lov om beskatning af søfolk (sømandsbeskatningsloven), jf. lovbekendtgørelse nr. 131 af 7. februar 2020, som ændret ved lov nr. 1583 af 27 december 2019 ((...) udvidelse af sømandsfradraget til søfolk på forsknings- og havundersøgelsesskibe m.v.).

- (30) The Act is supplemented by the Executive Order on the Taxation of Seafarers. In particular, sections 1-3, 6 and 24 of such Executive Order contain rules on the administration and control of the scheme.

## **2.6. Duration**

- (31) The Danish authorities indicated that pursuant to Section 13(2) of Act No 1583 of 27 December 2019 the Minister for Taxation shall set the date for the entry into force of the envisaged extension by means of implementing provisions following authorisation from the European Commission.
- (32) The envisaged extension will therefore enter into force following the Commission's approval and will end on 31 December 2021, when also the existing scheme will end. In this regard, the Danish authorities submitted that both the existing scheme and the envisaged extension will be re-notified together by that date.

## **3. ASSESSMENT OF THE AID**

### **3.1. Existence of aid under Article 107(1) of the TFEU**

- (33) According to Article 107(1) TFEU *"any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market"*.
- (34) It follows that, in order for a measure to be qualified as State aid within the meaning of Article 107(1) TFEU, the following four cumulative conditions have to be met:
- It has to be imputable to the Member State and granted out of State resources.
  - It has to confer an economic advantage on undertakings.
  - The advantage has to be selective.
  - The measure has to distort or threaten to distort competition and affect trade between Member States.
- (35) In this respect, the Commission notes that Denmark accepts the State aid qualification under Article 107(1) TFEU of the notified measure.
- (36) In its decisions on the existing scheme the Commission concluded that the scheme constitutes State aid within the meaning of Article 107(1) TFEU since the tax deductions applicable to qualifying seafarers imply foregone revenues for Denmark and hence are financed through State resources. Moreover, since the measure is implemented through national legislation, it is imputable to Denmark. Moreover, the tax deductions reduce the costs that ship-owners have to bear and therefore grant at least an indirect advantage to the shipping companies hiring these seafarers. This advantage is selective since they are not available to companies not benefiting from the scheme in other sectors of the economy, which are however in a comparable situation. Finally, in view of other possible means

of transport and the global scale of maritime transport, the measure is liable to distort competition and affect trade within the liberalised European shipping market, which is exposed to fierce international competition. Nothing in the notification of the present scheme alters that assessment.

- (37) It follows that the measure involves State aid in the sense of Article 107(1) TFEU.

### **3.2. Legality of the aid**

- (38) As explained in recital (31) above, Section 13(2) of Act No 1583 of 27 December 2019 stipulates that the Minister for Taxation shall set the date for the entry into force of the envisaged extension by means of implementing provisions following authorisation from the European Commission. Hence, without the Commission's approval, the notified scheme cannot enter into force.
- (39) The Commission takes note of the commitment of the Danish authorities to respect the standstill obligation laid down in Article 108(3) TFEU and not to enforce the regime until the Commission adopts a decision authorising the notified measures.

### **3.3. Compatibility of the aid**

- (40) Pursuant to Article 107(3)(c) TFEU aid to facilitate the development of certain economic activities or of certain economic areas may be considered compatible with the common market, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (41) The Commission has issued Guidelines for the application of Article 107(3)(c) TFEU with regard to State aid to maritime transport (the Maritime Guidelines).
- (42) The scheme under assessment has been notified under the Maritime Guidelines. The Commission must therefore assess in particular whether the extended scope of the scheme, i.e. the extension to research vessels, remains within the objectives of the Maritime Guidelines.

#### *3.3.1. Objectives in the common interest*

- (43) The Maritime Guidelines provide that State aid schemes in relation to labour-related costs for seafarers may be introduced in order to support the Community maritime interest, in particular with the aim of:
- reducing fiscal and other costs and burdens borne by Community ship-owners and Community seafarers towards levels in line with world norms, directly stimulating the development of the maritime transport sector and employment, rather than providing general financial assistance;
  - encouraging the flagging or re-flagging to Member States' registers;
  - contributing to the consolidation of the maritime cluster established in the Member States while maintaining an overall competitive fleet on world markets; and

- maintaining and improving maritime know-how and protecting and promoting employment for European seafarers.
- (44) The Commission notes that the objectives of the notified scheme as described in section 2.3 above are in line with the objectives set out by the Maritime Guidelines. The scheme aims at guaranteeing economic conditions in order to maintain the competitiveness of the European shipping sector, attract investments and achieve economic growth, increase the EEA's maritime fleet and create skilled maritime employment in the EEA.
- (45) The notified scheme, thus, is in line with the Maritime Guidelines and the Commission's decisional practice in this respect.

### 3.3.2. *Scope of the scheme*

- (46) Seafarer schemes in the sense of the Maritime Guidelines may concern either:
- reduced rates (or a (partial) reimbursement) of income tax for Community seafarers on board vessels registered in a Member State, and/or
  - reduced rates (or a (partial) reimbursement) of contributions for the social protection of Community seafarers employed on board vessels registered in a Member State.
- (47) As described in sections 2.1 and 2.2 above, the notified scheme concerns a partial reduction on income taxes related to seafarers employed on board research vessels. This type of labour-cost reduction is authorized by the Maritime Guidelines.
- (48) The extension, thus, is in line with the Maritime Guidelines and the Commission's decisional practice in this respect.

### 3.3.3. *Eligible seafarers*

- (49) Only Community seafarers, employed on board vessels registered in a Member State, are eligible to benefit from the seafarer scheme. Under the Maritime Guidelines, Community seafarers are defined as:
- *"Community / EEA citizens, in the case of seafarers working on board vessels (including ro-ro ferries) providing scheduled passenger services between ports of the Community,*
  - *all seafarers liable to taxation and/or social security contributions in a Member State, in all other cases."*
- (50) The Danish authorities explained that the notified scheme will only apply to seafarers who are liable to taxation in Denmark working on board vessels registered in a Member State.
- (51) In addition, as mentioned in section 2.2 above (see recital (13)), the Danish authorities confirmed that the notified scheme will not apply to seafarers working on board vessels providing scheduled passenger services between ports of the Community.



- (52) In light of the information provided from the Danish authorities, the Commission concludes that the notified scheme applies to Community seafarers in the sense of the Maritime Guidelines.

#### *3.3.4. Eligible vessels*

- (53) Only genuine maritime transport activities are eligible for aid under the Maritime Guidelines. Maritime transport activities are defined in Regulation (EEC) No 4055/86<sup>17</sup> and in Regulation (EEC) No 3577/92<sup>18</sup> as the "transport of goods and persons by sea" between ports or between ports and an off-shore installation.
- (54) Eligible vessels must therefore be engaged in transport of passengers or freight (shipping activities) between various destinations by sea-going vessels and other activities directly related thereto.
- (55) The Commission has also decided that certain activities, even if they do not fall or only partially fall within the definition of maritime transport, can, by analogy, be subject to the provisions of the Maritime Guidelines under the direct application of Article 107(3)(c) TFEU, provided that they share three important common characteristics with vessels that perform maritime transport. First, the companies must operate in a global market and face similar challenges, in terms of global competition and relocation of on-shore activities, to those of the EU maritime transport sector. Second, the activities of the relevant vessels must be subject to the same legal environment as EU maritime transport in the fields of labour protection, technical requirements and safety. The activities must require qualified and trained seafarers, with similar qualifications as those working on board traditional maritime transport vessels. Seafarers on board those types of vessels should be governed by the same labour law and social framework as other seafarers working on other vessels. Third, the vessels must be seagoing vessels and they must be obliged to undergo the same technical and safety controls as vessels dedicated to maritime transport.<sup>19</sup>

#### *The extended scope covering research vessels*

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<sup>17</sup> Regulation (EEC) No 4055/86 of 22.12.1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries, OJ L 378, 31.12.1986, p.1.

<sup>18</sup> Regulation (EEC) No 3577/92 of 7.12.1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage), OJ L 364 of 12.12.1992, p.7.

<sup>19</sup> Decisional practice in respect of the eligibility of certain non-maritime transport activities under the Maritime Guidelines: Commission decision of 13 April 2015 in case SA.38085 (2013/N) concerning the prolongation of the Italian tonnage tax scheme (including its application to vessels providing rescue at sea and marine assistance on the high seas), recital 54, OJ C 406, 4.11.2016, p. 1; Commission decision of 13 January 2009 in case SA C 22/2007 as regards the extension to dredging and cable-laying activities of the regime exempting maritime transport companies from the payment of the income tax and social contributions of seafarers in Denmark, recitals 65-72, OJ L 119, 15.5.2009, p. 23; Commission decision of 27 April 2010 in case SA. N 714/2009, The Netherlands – Extension of the tonnage tax scheme to cable layers, pipeline layers, research vessels and crane vessels, recitals 37 to 46, OJ C 158, 18.6.2010, p. 2; Commission decision of 12 October 2018 on SA.45300 Amendment of the Danish Tonnage Tax scheme (Extension of the tonnage tax scheme to cover a number of specialized vessels), OJ C 90, 8.3.2019, p. 1; Commission decision of 6 April 2018 on SA.48929, Portuguese Tonnage Tax and Seafarer Scheme, OJ C 339, 21.9.2018, p. 3.

- (56) The Danish authorities provided a description of the main activities of the research vessels covered by the scheme as detailed above in section 2.2.
- (57) The Danish authorities also indicated that these vessels are the same type of research vessels as those that the Commission already accepted in its decision-making practice<sup>20</sup>.
- (58) The Commission notes that the research vessels in question do not perform solely or predominantly maritime transport in the sense of the Maritime Guidelines. Therefore, the activities of such vessels cannot be eligible under the present scheme in direct application of the Maritime Guidelines. Nevertheless, the Maritime Guidelines may be applied by analogy to the activities of those vessels.
- (59) In that respect, on the basis of the information provided by the Danish authorities the Commission considers that the research vessels concerned by the extension in all cases require qualified seafarers, with qualifications comparable to those working on board traditional maritime transport vessels and are subject to the same labour and social standards. These vessels are all sea-going vessels and they are obliged to undergo technical and safety controls comparable to those of vessels dedicated to maritime transport (see also recitals (21) and (22) above).
- (60) Consequently, the Commission acknowledges that the research vessels subject to the extension, and thereby the activities they carry out, are subject to a legal environment comparable, as regards labour, technical requirements and safety, to the one of maritime transport. Similarly, qualified and trained seafarers are necessary as is the case for standard maritime transport.
- (61) In addition, section 3.1, 1<sup>st</sup> paragraph, of the Maritime Guidelines suggests that the fiscal climate in many third countries is considerably milder than within Member States, which has resulted in there being an incentive for companies not only to flag out their vessels but also to consider corporate relocation. The information provided by the Danish authorities suggests that research activities are exposed to global competitive pressure, and that companies are facing a real risk of losing business to competitors located in more liberal jurisdictions.
- (62) The Commission therefore considers there is a risk that shipping companies carrying out research activities with those vessels relocate their on-shore activities outside the EU/EEA for the purpose of finding more accommodating fiscal climates and subsequently re-flag their vessels under flags of third countries. In this context, the Commission acknowledges that these companies operate in a global competitive market. The challenges that these activities face in terms of global competition and relocation of on-shore activities are therefore similar to those of EU maritime transport.
- (63) For the above reasons, the Commission considers that the notified scheme will have an incentive effect on beneficiaries to maintain their vessels under EEA

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<sup>20</sup> See, *inter alia*, Commission decision of 24 March 2014 in case SA.38240 (2014/N) regarding the Swedish Shipping Aid scheme (Sjöfartsstöd), OJ C 348, 3.10.2014, p. 17; Commission decision of 27 April 2020 in case SA.56475 (2020/N), concerning the extension of the Belgian seafarer scheme to certain vessels, OJ C 187, 5.6.2020, p. 7; Commission Decision of 27 April 2010 in case N714/2009 regarding the extension of the Dutch tonnage tax scheme to cable layers, pipeline layers, research vessels and crane vessels, OJ C 158, 18.6.2010, p. 2.

flags or to (re-)flag their vessels to an EEA flag and to contribute to the development of the EEA maritime sector.

- (64) In view of the above, the Commission considers that the vessels at stake may benefit from the same type of aid as vessels carrying out maritime transport activities pursuant to the Maritime Guidelines. Therefore, the relevant section of the Maritime Guidelines can be applied by analogy also for those vessels that are not strictly engaged in maritime transport activities pursuant to the Guidelines.

#### *Registration in a Member State*

- (65) Section 3.2 of the Maritime Guidelines provides that employment-cost reductions should be allowed for Community shipping provided they apply to Community seafarers employed on board ships registered in a Member State.
- (66) The Danish authorities confirmed that the notified scheme will only apply to vessels registered in the EU/EEA.
- (67) For these reasons, Section 3.2 of the Maritime Guidelines is complied with.

#### *3.3.5. National flagging restrictions*

- (68) National flagging restrictions, according to which the benefits of the seafarer scheme are conditional on a certain level of national (and not EEA) flagging, infringe internal market rules in a manner indissolubly linked to the assessment of the compatibility of similarly limited aid measures.
- (69) The Danish authorities confirmed that the notified scheme does not discriminate between EEA flags, as it applies to all EU/EEA eligible vessels.
- (70) For this reason, the Commission considers that the conditions of the Maritime Guidelines on EEA flagging are complied with.

#### *3.3.6. Aid cumulation / aid ceiling*

- (71) In line with Chapter 11 of the Maritime Guidelines, the total aid for the benefit of shipping companies, independently of the form of the aid, should not provide a higher benefit than the full exemption from taxes and social contributions of shipping activities and seafarers.
- (72) As explained by the Danish authorities in section 2.1 above, since the benefits only constitute a partial reduction in income taxes that have to be paid, such benefits cannot be higher than a full exemption from taxes and social contributions of shipping activities and seafarers.
- (73) Therefore, the Commission concludes that the requirements relating to aid cumulation / aid ceiling are fulfilled.

### 3.3.7. Duration

- (74) According to the case-law, aid schemes cannot be approved as compatible under Article 107(3) TFEU for an unlimited duration<sup>21</sup>. Schemes must be subject to a regular review of their effectiveness and impact.
- (75) The notified scheme will therefore remain in force until 31 December 2021.
- (76) The Commission notes that such duration is in line with previously approved State aid schemes in the maritime sector.

## 4. CONCLUSION

- (77) Based on the foregoing, the Commission considers that the notified extension of the existing scheme fulfils all the necessary conditions of the Maritime Guidelines and is in line with the Commission's decisional practice. Therefore, the Commission concludes that the notified scheme, as assessed above, constitutes State aid pursuant to Article 107(1) TFEU which is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

## 5. DECISION

The Commission has accordingly decided:

- not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union.

The Commission notes that for reasons of urgency, Denmark exceptionally accepts the adoption and notification of the Decision in English.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

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<sup>21</sup> Case C-67/09 P Nuova Agricast EU:C:2010:607, para. 80.

Your request should be sent electronically to the following address:

European Commission,  
Directorate-General Competition  
State Aid Greffe  
B-1049 Brussels  
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President

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