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**Subject: State Aid SA.59863 (2020/N) – Sweden
Amendment to State Aid SA.57710 (2020/N) – COVID-19:
Compensation for damages suffered by passenger ferries due to
COVID-19**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 14 December 2020, Sweden notified an amendment (the “measure” or the “new scheme”) to aid scheme SA.57710 (2020/N) (the “initial scheme”), which the Commission approved by decision SA.57710 (2020/N) (the “initial Decision”)¹ under Article 107(2)(b) of the Treaty on the Functioning of the European Union (“TFEU”).
- (2) Sweden exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,² and to have this Decision adopted and notified in English.

¹ Commission Decision C(2020) 4668 final of 6 July 2020, State aid SA.57710 (2020/N) - Sweden COVID-19: Compensation for damages suffered by passenger ferries due to COVID-19, OJ, C 236, 17 July 2020.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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2. DESCRIPTION OF THE MEASURE

- (3) The Swedish authorities have explained that the COVID-19 outbreak has had a significant impact on the Swedish economy and Swedish companies. Reduced demand in affected areas, reduced travelling and disruptions in transport and supply chains have affected Swedish companies, resulting in an unprecedented amount of notices of lay-offs and short-term lay-offs.
- (4) As of 14 March 2020, as an immediate consequence of the COVID-19 outbreak, the Swedish Ministry for Foreign Affairs advised against non-essential travel to all countries. On 16 March 2020, the Commission invited Member States to take coordinated action to restrict non-essential travel from third countries into the EU³.
- (5) Several Member States closed their borders: in particular, Denmark, Poland and Finland closed their borders on 14, 15, and 19 March 2020 respectively. Norway also closed its borders on 16 March 2020. Norway lifted some of its restrictions as of mid-July, while Poland's border was re-opened as of 13 June 2020. The borders of Denmark and Finland remain closed for Swedish passengers to date, without any indication as to when they would re-open.
- (6) As a result of those restrictions the Swedish authorities registered a rapid and dramatic decline in passenger numbers, and several ferry companies were forced to reduce traffic, cancel lines and take vessels out of traffic. Between 16 and 24 March 2020, 10 vessels were taken out of traffic and seafarers working on board those vessels have been placed on short-term lay-off. The affected companies however still incurred labour costs, as well as capital costs for the vessel, port fees, etc., while the vessels no longer generated any revenues.
- (7) On 6 July 2020, the Commission approved the initial scheme in State Aid SA.57710 (2020/N) – Sweden COVID-19: Compensation for damages suffered by passenger ferries due to COVID-19 (Swedish Ordinance (2020:730)).⁴ Under the initial scheme aid may be granted, as compensation for damages, for employees' wage costs incurred by the beneficiary shipping companies between 13 March 2020 and 31 December 2020⁵. The damages under the initial scheme are calculated for the period between 24 March and 31 July 2020.
- (8) The Swedish authorities therefore note that either the ferries are in traffic and benefit from aid under Ordinance (2001:770), approved in SA.46740⁶, or are at

³ See: https://ec.europa.eu/info/live-work-travel-eu/health/coronavirus-response/travel-and-transportation-during-coronavirus-pandemic/travel-and-eu-during-pandemic_en.

⁴ See footnote [1].

⁵ As clarified in recital (11) of the initial decision, shipping companies in Sweden (including passenger ferry companies) can already benefit from tax deductions on wage-related costs of seafarers that work on vessels engaged in maritime transport, under Ordinance (2001:770) on shipping aid. Aid pursuant to this Ordinance was approved by the Commission by decision of 16 December 2019 (Commission decision of 16 December 2019 in case SA.46740 (2016/N), OJ, C 25, 24 January 2020, see: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_46740).

⁶ See footnote [5].

quay and benefit from aid under the initial scheme during the relevant period as compensation for damages due to the COVID-19 outbreak. The Swedish authorities submitted that aid pursuant to the initial scheme considerably contributed to reduce the damage caused by the COVID-19 outbreak.

- (9) The Swedish authorities note that the COVID-19 continues to spread. This results in a number of travel restrictions being continuously in force since the beginning of the pandemic. In particular, it has not been possible for all Swedish citizens to travel to Finland since March 2020. In fact, according to instructions issued by the Finnish Border Guard, Sweden belongs to Restriction category 1, i.e. Swedish citizens are not allowed to enter the country unless they for example work in Finland or have to attend a funeral⁷. The Swedish authorities submit that those restrictions concerning entry to Finland will continue until at least 12 January 2021. The Finnish Government also recommends avoiding unnecessary travel from Finland to Sweden⁸.
- (10) The Swedish authorities submit that three shipping companies with in total four ferries offer services between Sweden and Finland. Two of those ferries were taken out of traffic⁹. In addition, the Swedish authorities note that Denmark has different kinds of travel restrictions in force since March 2020. Currently, according to the Danish Police authorities, Sweden is classified as a “banned country”, i.e. persons who reside in Sweden and other countries classified as banned cannot enter Denmark unless they have a valid purpose such as a job there or have to attend a funeral¹⁰. There is no information available when such restrictions will end. The Danish Government also recommends avoiding unnecessary travel from Denmark to Sweden.¹¹
- (11) The Swedish authorities submit that two shipping companies with in total five ferries offer services between Sweden and Denmark.¹²

⁷ <https://www.raja.fi/current-issues/guidelines-for-border-traffic>

⁸ Recommendations for Finnish citizens going to Sweden, available at the following link: <https://thl.fi/en/web/infectious-diseases-and-vaccinations/what-s-new/coronavirus-covid-19-latest-updates/travel-and-the-coronavirus-pandemic>

⁹ The Swedish authorities explained that the following shipping companies offer ferry services between Sweden and Finland: (i) shipping company Eckerö with the ferry Eckerö going from Grisslehamn to Åland; (ii) shipping company Tallink Silja with the ferry Galaxy going from Stockholm to Åbo and Symphony going from Stockholm to Åland/Helsingfors (Symphony is taken out of traffic. No other ferry from the list of aid eligible ferries operates the same route as Symphony; (iii) shipping company Viking with the ferry Cinderella going from Stockholm to Åland (Cinderella is taken out of traffic. No other ferry from the list of aid eligible ferries operates the same route as Cinderella).

¹⁰ <https://coronasmitte.dk/en/entry-into-denmark/persons-resident-in-banned-countries>

¹¹ Recommendations for Danish citizens going to Sweden, available at the following link: <https://um.dk/da/rejse-og-ophold/rejse-til-udlandet/rejsevejledninger/sverige/> (only in Danish).

¹² The Swedish authorities explained that the following shipping companies offer ferry services between Sweden and Denmark: (i) Forsea Helsingborg with the ferry Aurora going from Helsingborg to Helsingör; (ii) Shipping company StenaLine with the ferries Stena Danica, Stena Jutlandica and Stena Vinga (out of traffic in August) going from Göteborg to Fredrikshamn and Stena Nautica going from Halmstad to Grenå.

- (12) Other restrictions introduced by the Swedish government and concerning bans on non-essential travel to Sweden from all countries except Member States, the United Kingdom, Norway, Iceland, Liechtenstein and Switzerland continue to apply and affect the number of passengers travelling on ferries.
- (13) The Swedish authorities explain that the shipping companies operating those ferries are therefore unable to carry out traffic as a direct result of the partial bans between Sweden and Finland or Denmark and that the situation will continue for the foreseeable future. During the period between September and October 2020, almost all the ferries which were temporarily taken out of traffic in the previous months were back in some form of traffic. Nevertheless, in November 2020, due to the continued travel restrictions, two ferries were again temporarily taken out of traffic and will be still out of traffic at least for some time in 2021. In addition, there is a concrete risk that other ferry companies are forced to take further ferries temporarily out of traffic.
- (14) The Swedish authorities therefore wish to prolong Ordinance (2020:730) on temporarily amended shipping aid approved by the Commission on 6 July 2020 on the basis of the partial bans in force in the period between 1 August and 31 December 2020, in particular in view of the restrictions in place for ferries operating between Sweden and Finland or Denmark. Under the new scheme, only damages resulting from those travel restrictions and only for those ferries that are at quay can be compensated. The travel restrictions considered are one-way restrictions (regarding trips from Sweden and not to Sweden) affecting only Swedish citizens or Swedish residents. The damages will therefore be calculated as the lost revenues on the restricted routes from the eligible ferries and the eligible population subtracted with savings in the relevant variable costs (compared to the same period in 2019).
- (15) The Swedish authorities have indicated that:
- between Sweden and Finland, 60% of the passengers are Swedish citizens, and 80-90% of those passengers are subject to the restrictions (i.e. those who start their travel on the Swedish side).
 - between Sweden and Denmark, 65% of the passengers are Swedish residents, and 80-90% of those passengers are subject to the restrictions (i.e. those who start their travel on the Swedish side).
- (16) The damage will therefore be limited to a conservative estimation of 48% of [the lost revenues on the restricted routes subtracted with savings in the relevant variable costs (compared to the same period in 2019)] for ships operating a route between Sweden and Finland and 52% of [the lost revenues on the restricted routes subtracted with savings in the relevant variable costs (compared to the same period in 2019)] for ships operating a route between Sweden and Denmark.
- (17) Due to the adjustments related to the calculation of the damage in light of the restrictions (partial bans) in force during the applicable period the prolongation of the Swedish Ordinance (2020:730) approved in the initial Decision is notified as a new aid scheme that will enter into force on 1 January 2021, subject to Commission's authorisation.
- (18) The measure therefore aims to compensate passenger ferry companies for the damage suffered as a result of the applicable restrictions.

2.1. The nature and form of the measure

- (19) Under the new scheme, passenger ferry companies would be eligible to receive damage compensation as a result of the partial bans in force between Sweden and Finland or Denmark in the period from 1 August until 31 December 2020. Each individual ferry is only eligible for aid under the scheme if it is at quay. The financing mechanism of the initial scheme, consisting in tax deductions on wage-related costs for seafarers employed on vessels that have suffered damages as a result of the measures imposed in response to the COVID-19 outbreak, will remain unchanged.
- (20) Shipping companies in Sweden (including passenger ferry companies) can already benefit from tax deductions on wage-related costs of seafarers that work on vessels engaged in maritime transport, under Ordinance (2001:770) on shipping aid¹³.
- (21) However, Ordinance (2001:770) restricts eligibility to “income earned at sea”. In contrast, under the new scheme passenger ferry companies are entitled to compensation for damages only for those vessels that are at quay and which therefore cannot benefit from aid under the Ordinance (2001:770).

2.2. National legal basis

- (22) The national legal basis for the measure is the amendment to the Ordinance (2020:730) on temporarily amended shipping aid, which will be adopted following the Commission’s authorisation in the present Decision.

2.3. Administration of the measure

- (23) Applications for aid under the scheme will be handled by the Board for Shipping Aid at the Swedish Transport Administration. The Board works together with the Swedish Tax Agency to make sure that the tax account of the beneficiary is credited with the correct amount and that the aid amount does not exceed the damage suffered and that the scheme does not compensate for difficulties suffered by beneficiaries that are unrelated to the COVID-19 outbreak.

2.4. Budget and duration of the measure

- (24) The Swedish authorities submit that the State budget remains unchanged compared to the initial scheme as the aid will be taken from the same appropriation. In the initial Decision, the Swedish authorities estimated that the amount of aid disbursed under the scheme would be no more than SEK 100 000 000 (approximately EUR 9.8 million)¹⁴ and that no separate budget was allocated

¹³ Förordning (2001:770) om Sjöfartsstöd, see: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2001770-om-sjofartsstod_sfs-2001-770. Aid pursuant to this Ordinance was approved by the Commission by decision of 16 December 2019, Commission decision of 16 December 2019 in case SA.46740(2016/N), OJ, C 25, 24 January 2020, see: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_46740.

¹⁴ Exchange rate: SEK 1 = EUR 0.0983, taken in December 2020 from: https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-inforeuro_en.

to the scheme as it was financed from the same appropriation used for Ordinance (2001:770).

- (25) The scheme will enter into force on 1 January 2021 subject to the Commission's authorisation in the present Decision. Compensation under the scheme may be granted for wage costs incurred between 1 January and 1 July 2021, the date on which the Ordinance (2020:730) will cease to apply.
- (26) Aid may be granted based on the amended Ordinance (2020:730) for wage costs incurred between 1 January and 1 July 2021 as compensation for damages. These damages will be calculated for the period between 24 March and 31 December 2020¹⁵.

2.5. Beneficiaries

- (27) The beneficiaries under the scheme will be large shipping companies.
- (28) The Swedish authorities estimate that under the new scheme there will be approximately four potential beneficiaries.

2.6. Sectoral and regional scope of the measure

- (29) The scheme applies to passenger ferry companies in Sweden.

2.7. Basic elements of the measure

- (30) The Swedish authorities wish to amend the Ordinance (2020:730) on temporarily amended shipping aid approved by the Commission on 6 July 2020 and entered into force on 20 July 2020 to apply that Ordinance also for the period between 1 August and 31 December 2020.
- (31) Under the Swedish tax regime, income tax due by employees is normally withheld by employers when wages are paid. Subsequently, the employer pays the withheld tax to the State. Employers also pay social security contributions for their employees ("arbetsgivaravgifter") and are obliged to pay a general fee imposed on wages ("allmän löneavgift").
- (32) Under the scheme, 99% of the costs arising from each of the above obligations, i.e. the (i) tax levied on seafarers' income, (ii) social security contributions for seafarers, and (iii) general fee imposed on seafarers' wages, are reimbursed to the employer in case of eligible seafarers.
- (33) Aid under the new scheme can therefore only be received for ferries that are already entitled to aid under the Ordinance (2001:770) on shipping aid but whose seafarers temporarily do not fulfil the requirements regarding income at sea due to the ferries being at quay. This means that the Board for Shipping Aid is already aware of all related labour costs thanks to the previous aid applications. The ferry

¹⁵ Since the aid scheme is modelled on Ordinance (2001:770), the amount of aid granted under the scheme for any one month is not directly linked to the damages incurred in that same month. This is further discussed in Section 3.3.

companies must also declare any reimbursements related to the Act on aid in the event of short-time work (2013:948) to the Board.

- (34) The Swedish authorities confirmed that aid will not exceed the damages occurred in the period from the imposition of the travel restrictions until 31 December 2020. Only damages resulting from the applicable travel restrictions can be compensated.
- (35) The travel restrictions considered are one-way restrictions (regarding trips from Sweden and not to Sweden) impacting only Swedish citizens travelling to Finland or Swedish residents travelling to Denmark. The damages will therefore be calculated as the lost revenues on those restricted routes from the eligible ferries and the eligible population subtracted with savings in the relevant variable costs (compared to the same period in 2019).
- (36) The Swedish authorities have indicated that:
- between Sweden and Finland, 60% of the passengers are Swedish citizens, and 80-90% of those are subject to the restrictions (i.e. those who start their travel on the Swedish side).
 - between Sweden and Denmark, 65% of the passengers are Swedish residents, and 80-90% of those are subject to the restrictions (i.e. those who start their travel on the Swedish side).
- (37) The damage will be limited to a conservative estimation of 48% of [the lost revenues on the restricted routes after subtraction of savings in the relevant variable costs (compared to the same period in 2019)] for ships operating a route between Sweden and Finland and 52% of [the lost revenues on the restricted routes after subtraction of savings in the relevant variable costs (compared to the same period in 2019)] for ships operating a route between Sweden and Denmark. This will be verified by the Board for Shipping Aid at the Swedish Transport Administration by controlling relevant documentation from the beneficiaries.
- (38) In addition, the Swedish authorities have confirmed that:
- The Swedish Transport Administration will control ex-post the exact amount of damage incurred by each beneficiary of the scheme. Any payment exceeding the damage suffered as a direct consequence of the travel restrictions and border closures implemented in response to the COVID-19 outbreak will be recovered.
 - Payments to beneficiaries under the scheme will be net of any amount recovered by insurance, litigation, arbitration or other source for the same damage;
 - The Swedish authorities confirmed that the benefit of the aid is excluded for any applicant who is responsible for the damage suffered and/or did not conduct its activities with due diligence or in compliance with applicable legislation or did not take any measure to mitigate its damages.
 - The Swedish authorities clarify that the Ordinance (2020:730) also specifies that aid cannot be provided for the same costs covered by other

measures introduced by the Swedish government due to the spread of the virus that causes COVID-19.

2.8. Cumulation

- (39) The Swedish authorities have confirmed that aid provided under the scheme cannot be cumulated with other aid for the same eligible costs.

2.9. Monitoring and reporting

- (40) The Swedish authorities have committed to provide a report no later than one year after the date of the present Decision specifying the amount of compensation and recoverable advances granted and including a summary of all recoveries ordered under the measure.

3. ASSESSMENT

3.1. Legality of the measure

- (41) By notifying the scheme before putting it into effect, the Swedish authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (42) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (43) The measure is imputable to the State, since it is administered by the Board for Shipping Aid at the Swedish Transport Administration and based on an Ordinance to be adopted by the Swedish Government (see recital (23)). It is financed through State resources, since it is financed by the State general budget: the State will reimburse eligible passenger ferry companies for wage-related taxes paid.
- (44) The measure confers an advantage on its beneficiaries in the form of compensation provided to them for losses arising directly from the COVID-19 outbreak. The measure thus relieves eligible beneficiaries of costs that they would have to bear under normal market conditions. The compensation is paid to the beneficiaries in the form of tax deductions (see recitals (19), (25) and (26)). The advantage corresponds to the amount of tax deducted and reimbursed to the employer (see recital (32)).
- (45) The advantage granted by the measure is selective, since it is awarded only to passenger ferry companies that meet the eligibility requirements of the scheme (see recitals (27) and (29)).
- (46) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

- (47) In view of the above, the Commission concludes that the measure constitutes State aid within the meaning of Article 107(1) TFEU. This conclusion is also shared by the Swedish authorities, which have notified the measure as compatible aid.

3.3. Compatibility

- (48) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market. Following the notification of the Swedish authorities, the Commission has examined the notified measure pursuant to Article 107(2)(b) TFEU.
- (49) That assessment has led to the following observations.

The notion of exceptional occurrences with the meaning of Article 107(2)(b) TFEU

- (50) Article 107(2)(b) TFEU provides that aid to make good damage caused by natural disasters or exceptional occurrences shall be compatible with the internal market. Neither the TFEU nor other Union legislation contains a precise definition of the notion of ‘exceptional occurrence’. As they constitute exceptions to the general prohibition of State aid within the internal market laid down in Article 107(1) TFEU, the Commission, in line with the consolidated Union case-law¹⁶ has consistently held that the notions of ‘natural disaster’ and ‘exceptional occurrence’ referred to in Article 107(2)(b) TFEU must be interpreted restrictively.
- (51) The characterisation of an event as being an exceptional occurrence is made by the Commission on a case-by-case basis, having regard to its previous practice in the field¹⁷. In this regard, the following indicators relating to the event concerned must be cumulatively met: (i) unforeseeable or difficult to foresee¹⁸; (ii) significant scale/economic impact¹⁹; and (iii) extraordinary²⁰.

¹⁶ Judgment of the Court of Justice of 11 November 2004, *Spain v. Commission*, C-73/03, EU:C:2004:711, paragraph 37 and judgment of the Court of Justice of 23 February 2006, *Atzeni and others*, in *Joined Cases C-346/03 and C-529/03*, EU:C:2006:130 paragraph 79.

¹⁷ Exceptional occurrences which have been accepted in the past by the Commission include war, internal disturbances and strikes, and, with certain reservations and depending on their extent, major industrial accidents which result in widespread economic loss, see *Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020*, paragraph 330 (OJ C 204, 1.07.2014, p. 53).

¹⁸ Commission Decision of 1 August 2008 in case SA.32163, *Remediation of damage to airlines and airports caused by seismic activity in Iceland and the volcanic ash in April 2010, Slovenia*, recital 31.

¹⁹ Elements taken into account by the Commission to consider that the occurrence reached a significant scale: negative consequences cannot be contained (Commission Decision of 4 October 2000 in case NN 62/2000, *Régime temporaire d'aides aux entreprises victimes des intempéries et de la marée noire – France*), or because of the number of dead or injured people (Commission Decision of 11 April 2012 in case SA.33487, *Agricultural and fisheries aid to compensate for damage due to exceptional occurrence (red mud "Aluminium accident")*, Hungary, recital 35; Commission Decision of 2 May 2002 in case N241/2002, *Régime en faveur des entreprises victimes de la catastrophe industrielle de Toulouse*, France, recital 19), the immense ecological and economic damage (Commission Decision of 11 April

COVID-19 as an exceptional occurrence

- (52) Following the first reports of cases of acute respiratory syndrome (COVID-19) in the Chinese Wuhan municipality at the end of December 2019, the Chinese authorities have identified a novel coronavirus (SARS-CoV-2) as the main causative agent, which had not been previously identified in humans. The outbreak has rapidly evolved, affecting not only other parts of China but spreading to the majority of countries worldwide. Specific sectors and areas are particularly affected by the outbreak, be it because of national outbreak control measures, travel restrictions or supply chain disruptions.
- (53) The WHO declaration of a pandemic²¹, associated with the public health risk deriving from the absence of therapeutics or vaccines for the novel COVID-19 determine the exceptional nature of the circumstances. The rapidness of the spread can cause enormous consequences both in terms of fatal outcomes in high-risk groups and in terms of economic and societal disruption²². The necessity to adopt and encourage the respect of measures aimed at interrupting transmission chains stems from this acknowledgement. Such measures can result in far-reaching disruption of various economic sectors. This disruption is thus clearly outside the normal functioning of the market.
- (54) In view of the above, this event qualifies as an exceptional occurrence as it was not foreseeable, as it clearly distinguishes itself from ordinary events by its character and by its effects on the affected undertakings and the economy in general and therefore lies outside of the normal functioning of the market.²³
- (55) In this context, the COVID-19 outbreak can be considered as an exceptional occurrence within the meaning of Article 107(2)(b) TFEU.

Causal link between COVID-19 outbreak and damage compensated by the measure

- (56) As mentioned in recital (4), on 14 March 2020 the Swedish Ministry for Foreign Affairs advised against non-essential travel to all countries until at least 15 July.

2012 in case SA.33487, recital 36), the amount of material damage despite the local character of the industrial accident (Commission Decision of 2 May 2002 in case N 241/2002, recital 19).

²⁰ In its Decision of 19 May 2004 in case C-59/2001 (OJ L 32, 6.2.2007, p. 14), the Commission considered that the (alleged) fall in sales of poultry meat in a Member State not directly affected by the dioxin contamination, did not constitute in itself an exceptional occurrence. It was yet an unforeseeable event, but formed part of the normal commercial risks to which an undertaking is exposed.

²¹ WHO Director-General's opening remarks at the media briefing on COVID-19 on 11 March 2020, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

²² ECDC's Rapid Risk Assessment, Outbreak of novel Coronavirus disease 2019 (COVID-19): increase transmission globally – fifth update, 2 March 2020.

²³ See also Commission Decision of 12 March 2020, SA.56685 - Denmark - Compensation scheme for cancellation of events related to COVID-19, OJ C 125, 17.4.2020, p. 8.

On 16 March 2020, the Commission invited Member States to take action to restrict non-essential travel from third countries into the Union.

- (57) As mentioned in recital (5), Denmark, Poland, Norway and Finland closed their borders on 14, 15, 16 and 19 March 2020 respectively. Poland's border was re-opened as of 13 June 2020 and Norway's border reopened around mid-July. However, both Denmark and Finland still have bans in place for travel from Sweden and there is no indication of when such bans can be lifted (see recitals (9) and (10)).
- (58) Those Danish and Finnish measures still affect certain passenger ferry companies with traffic to and from Sweden. Sweden is therefore still experiencing a dramatic decline in passenger numbers as a result of those measures and several ferry companies were forced to reduce traffic, cancel lines and take vessels out of traffic. In particular, some ferry companies carry out transport of passengers only partly, as both Finland and Denmark still prohibit entry of passengers coming from Sweden. For the same reasons, some ferry companies have decided to take ferries out of traffic.
- (59) The period for the calculation of the damage under the new scheme is extended to the period between 1 August to 31 December 2020, during which the Swedish authorities consider that a certain number of vessels suffered a damage as a result of the applicable restrictions. The damages will be calculated as the lost revenues on the restricted routes in Denmark and Finland, suffered by the eligible ferries in light of the eligible population, after subtraction of savings in the relevant variable costs (compared to the same period in 2019).
- (60) The travel restrictions considered are one-way restrictions (regarding trips from Sweden and not to Sweden) affecting only Swedish citizens travelling to Finland or Swedish residents travelling to Denmark. The damages will therefore be calculated as the lost revenues on the restricted routes from the eligible ferries and the eligible population subtracted with savings in the relevant variable costs (compared to the same period in 2019).
- (61) The Swedish authorities have indicated that:
- between Sweden and Finland, 60% of the passengers are Swedish citizens, and 80-90% of those are subject to the restrictions (i.e. those who start their travel on the Swedish side).
 - between Sweden and Denmark, 65% of the passengers are Swedish residents, and 80-90% of those are subject to the restrictions (i.e. those who start their travel on the Swedish side).
- (62) The damage will be limited to a conservative estimation in relation to restricted routes between Sweden and, respectively, Finland and Denmark. For Finland, it will be 48% of the lost revenues on the restricted routes after subtraction of savings in the relevant variable costs (compared to the same period in 2019) for ships operating a route between Sweden and Finland. For Denmark, it will be 52% of the lost revenues on the restricted routes after subtraction of savings in the relevant variable costs (compared to the same period in 2019) for ships operating a route between Sweden and Denmark. This will be verified by the Swedish Transport Administration (see recital (38)).

- (63) The direct causal link between COVID-19 outbreak and the partial bans and the damage suffered, and between the damage and the aid is therefore ensured.

Proportionality of the aid

- (64) In order to be compatible with Article 107(2)(b) TFEU, the aid must be proportional to the damage caused by the exceptional occurrence. Aid must not result in overcompensation of damage and should only make good the damage caused by the exceptional occurrence.
- (65) Passenger ferry companies who are eligible under the scheme still incur costs for those vessels that are subject to the concerned restrictions. They include labour costs, capital costs for the vessel and port fees, while some the vessels no longer generate any revenue at all (see recitals (6) and (7)). Aid granted under the scheme consists of tax deductions that serve to lower the companies' wage-related costs (see recitals (30)-(32)).
- (66) The Swedish authorities have put in place the following additional safeguards, so that the compensation under the scheme does not exceed what is necessary to make good the actual damage suffered and thus meets the above-mentioned criteria.
- (67) First, as described in recital (38) of this Decision, payments to beneficiaries under the scheme will be net of any amount recovered by insurance, litigation, arbitration or other source for the same damage.
- (68) Second, as described in recital (38), the Swedish authorities confirmed that the benefit of the aid is excluded for any applicant who is responsible for the damage suffered and/or did not conduct its activities with due diligence or in compliance with applicable legislation or did not take any measure to mitigate its damages.
- (69) Third, as also mentioned in recital (38), the Swedish authorities will control ex-post the exact amount of damage incurred by each beneficiary of the scheme. Any payments under the scheme exceeding the damage suffered as a direct consequence of the COVID-19 outbreak will be recovered. The damages will be calculated as the lost revenues from the eligible ferries after subtraction of savings in the relevant variable costs associated with the partial ban only.
- (70) Fourth, as mentioned in recital (39) the Swedish authorities have confirmed that aid provided under the scheme cannot be cumulated with other aid for the same eligible costs.
- (71) Sweden has therefore ensured that the compensation under the scheme will not exceed the damage directly suffered by each beneficiary from the loss of revenue caused by the COVID-19 outbreak.
- (72) In view of the above, the Commission considers that the measure is compatible with the internal market in accordance with Article 107(2)(b) TFEU.

4. CONCLUSION

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(2)(b) TFEU.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

