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PUBLIC VERSION

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Subject: **State Aid SA.61945 (2021/N) - Denmark  
COVID-19: Aid scheme for mink farmers and related businesses  
affected by the COVID-19 outbreak.**

Excellency,

## 1. PROCEDURE

- (1) Following pre-notification contacts<sup>1</sup>, by electronic notification of 15 March 2021, the Kingdom of Denmark (“Denmark”) notified to the Commission an aid package to support the mink farming sector and related businesses (“the aid scheme” or “the measures”) under Articles 107(2)(b) and 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”).
- (2) Denmark exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

## 2. DESCRIPTION

- (3) When several COVID-19 mutations related to minks were observed in Denmark, which could eventually jeopardize the international efforts to put an end to the

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<sup>1</sup> Denmark pre-notified the measures on 12 November 2020 and submitted additional information on 16, 17 and 20 November 2020, and on 1 and 7 December 2020. Denmark sent further pre-notification documents on 15 February 2020.

<sup>2</sup> Regulation No 1/1958 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

Udenrigsminister Jeppe KOFOD  
Asiatisk Plads 2  
DK-1448 København K

crisis, the authorities took prompt action to prevent the rapid spread of the virus and, on 6 November 2020, requested the culling of all minks in Denmark at the latest by 19 November.

- (4) The same day, the Danish authorities announced that a “tempo bonus” would be available for mink farmers with a view to achieving a rapid culling by 19 November and an “additional” bonus for farmers in the affected municipalities who culled their animals before 12 November.
- (5) Shortly after, the Government presented a bill to parliament, which proposed a ban on the keeping of mink until 2022.
- (6) These extraordinary measures were taken with a view to protect human health worldwide, and create an urgent need to provide economic compensation and support to the affected sectors.
- (7) The aid scheme aims at providing full compensation to mink farmers for the losses suffered directly as result of complying with the urgent and extraordinary measures taken by Denmark related to the COVID-19 outbreak (i.e. the ban on the keeping of mink until 2022), while also providing support to mink farmers and related businesses who are willing to transfer their production capacity to the State.

### **2.1. The nature and form of aid**

- (8) The aid scheme provides aid in the form of direct grants.

### **2.2. Legal basis**

- (9) The legal basis is the proposed Draft Order on the compensation to mink farmers and related businesses as a result of the temporary ban on mink keeping (*“Udkast til Bekendtgørelse om erstatning og kompensation til minkvirksomheder og følgerhverv til minkvirksomheder som følge af det midlertidige forbud mod hold af mink”*).

### **2.3. Duration**

- (10) Aid may be granted under the aid scheme from the notification of the decision on its approval until no later than 1 April 2027.

### **2.4. Budget**

- (11) The overall estimated budget for the aid scheme is estimated at DKK 12.9 billion (approximately EUR 1.7 billion). The estimated budget of the compensation and support to mink farmers is approximately DKK 9 billion (approx. EUR 1.2 billion). The budget of the support to certain related business is estimated to be approximately DKK 4 billion (approximately EUR 538 million). It will be financed from the general State budget of Denmark.

### **2.5. Beneficiaries**

- (12) The aid will be granted to all mink farms in Denmark and certain related businesses (as defined in recital (67)).

- (13) The number of beneficiaries is estimated at about 1100 mink farms (including approximately 200 mink farms that are run as part-time businesses). These include small and medium enterprises ('SMEs') as well as large undertakings.
- (14) The estimated number of beneficiaries in related businesses is around 150. The support scheme for related businesses will apply to undertakings with a business that relies, to a very large extent, directly on mink production. These undertakings will include, among others, specialised food providers, specialized transport companies, skinning factories, and the fur auctioneer in Denmark (Kopenhagen Fur).
- (15) Aid under the scheme will not be granted to undertakings that have benefited from earlier unlawful aid declared incompatible by a Commission Decision (either as an individual aid or an aid under an aid scheme being declared incompatible), until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest. Aid may be granted under the scheme to undertakings that are in difficulty as defined in point (35)15 of the 2014 European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas (hereinafter: the Guidelines)<sup>3</sup>. Moreover, aid under the scheme will be conditional on beneficiaries (both mink farmers and related businesses) having the required permits to run their business legally (such as environmental permits).

## 2.6. Description of the measures

### 2.6.1. Background

- (16) In the spring of 2020, the first minks were detected with COVID-19 in the Netherlands.
- (17) On 17 June 2020, the Danish Veterinary and Food Administration discovered COVID-19 in a mink farm in the North Jutland Region of Denmark (Nordjylland). Among the minks, several mutated variants of COVID-19 were found (including cluster 5<sup>4</sup>). Based on a precautionary principle, the Danish authorities decided to cull the minks in the one – and by then only – infected farm, and initiated a test programme regarding COVID-19 in minks. At this stage, the authorities discovered COVID-19 infections at three mink farms that were all located in the North Jutland Region.
- (18) By 18 September 2020, a total of 20 farms were infected with COVID-19, all in the North Jutland Region. By 1 October 2020, a total of 41 mink stocks had been infected with COVID-19, and the authorities suspected that further 41 stocks in the same region were also infected.
- (19) On 2 November 2020, there were 191 infected mink farms. There are approximately 1100 mink farms in Denmark. In view of this rapid and

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<sup>3</sup> 2014 European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas. OJ C 204 of 1.7.2014, p. 1. Amended by the notices published in OJ C 390, 24.11.2015, p. 4, OJ C 139, 20.4.2018, p. 3 OJ C 403, 9.11.2018, p. 10 and OJ C 424, 08.12.2020, and by the corrigendum published in OJ C 265, 21.7.2016, p. 5.

<sup>4</sup> Name for the SARS-CoV-2 mink-associated variant strain, more information at: <https://www.who.int/csr/don/06-november-2020-mink-associated-sars-cov2-denmark/en/>

uncontrollable spread, the Danish Government decided on 8 October 2020 that all minks from infected farms and from farms inside the “safety zones” (zones in the range of 7.8 km from an infected farm) were to be culled. As of 2 November 2020, it was estimated that the minks on a total of 460 mink farms had to be culled.

- (20) In parallel, in the first part of November 2020, the average daily number of new confirmed cases of COVID-19 in persons was around 1 000, reaching all-time highs.
- (21) The minks are kept in an environment that leads to a rapid spread of the virus within farms and to a high risk of mutations of COVID-19. Mutations of the virus could eventually jeopardize the worldwide effort to create an effective vaccine against COVID-19. When the Danish authorities realized that a spread of COVID-19 cluster 5, and potentially other mutated variants evolving among the minks, could jeopardize these worldwide efforts, they took prompt actions in the beginning of November 2020.
- (22) There were also increasing concerns that the situation could have severe consequences for the Danish economy as a whole if other countries introduced specific restrictions directed at Denmark. It was thus deemed necessary to impose a lockdown in the North Jutland Region of Denmark<sup>5</sup> to limit the spread of COVID-19 cluster 5 and, on 4 November 2020, the Government also announced the intention of culling all minks in Denmark, sending a letter to all mink farmers on 6 November 2020. There were approximately 15.5 million minks in Denmark before the culling.
- (23) This concern was confirmed when, on 7 November 2020, the UK Government implemented a travel ban for all visitors (private and businesses) coming from Denmark to protect public health following the COVID-19 outbreak in minks and the variant strain of the virus spreading to local communities in Denmark.
- (24) In order to avoid a similar situation developing in 2021, the Government also banned the keeping of mink until 1 January 2022<sup>6</sup>. By the beginning of February 2021, all minks in Denmark were culled.
- (25) These decisions were based on scientific advice available at the time and the interim examinations of Statens Serum Institut (SSI)<sup>7</sup>, which discovered the new mutated variant of COVID-19 (cluster 5) in minks. Moreover, it was of great concern that the farms (their conditions are explained in recital (21)) acted as a huge reservoir of infected animals and thus had a huge potential of spreading COVID-19 to the local population. Several mutations that can be traced back to minks had already been discovered at that time (see recital (20)). In fact,

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<sup>5</sup> Starting on 5 November 2020. This municipal lockdown lasted until 19 November 2020 (ban for the citizens to leave their respective municipality) and 23 November 2020 (regarding the other temporary restrictions).

<sup>6</sup> Act No 2185 of 29 December 2020 on the killing and temporary ban of mink keeping, which entered into force on 20 January 2021.

<sup>7</sup> SSI is under the auspices of the Danish Ministry of Health and is responsible for the Danish preparedness against infectious diseases.

subsequent investigations have found that half of the COVID-19 infections in humans in the North Jutland Region can be traced back to mink farms.

- (26) These extraordinary measures effectively shut the entire mink industry in Denmark for some years, thus creating an urgent need to provide financial compensation and or support to mink farmers and related businesses. The Danish authorities further submit that the loss of employment caused by the dismantling of the mink fur industry due to COVID-19 will inevitably impact the regions (and their residents) where the facilities are located and, therefore, the entire Danish economy.
- (27) The aid scheme comprises two measures. First, direct grants to compensate for the ban on mink farming under Article 107(2)(b) TFEU, awarded to mink farmers that will stop production temporarily until the ban is lifted; second, direct grants to support mink farmers and related businesses who are willing to give up their production capacity to the State, that is, for the acquisition of their assets under Article 107(3)(b) TFEU.
- (28) These measures are complementary to those already taken by the Danish authorities under Article 26 of the Agricultural Block Exemption Regulation (“ABER”)<sup>8</sup>, by which direct grants will be awarded for the culling of minks on public health grounds (compensation for the actual culling and for the value of the culled minks), as well as an “additional” bonus for their rapid culling (the “tempo” bonus as described in recital (2))<sup>9</sup>.

#### 2.6.2. Measure 1

- (29) The first measure concerns the compensation for the damage caused by the ban on mink farming, and covers those mink farmers that will temporarily cease production until the ban on mink farming is lifted. Mink farmers that wish to continue their mink business when the ban is lifted will be compensated for all ongoing fixed costs (including operating costs such as maintenance of equipment, general maintenance, etc.) until the ban is lifted on 1 January 2022. Should the ban be upheld beyond 2021, it is possible to grant an extension of the temporary shutdown for a maximum of one year, thus including compensation for fixed costs in 2022 as well.
- (30) With regard to the compensation of fixed costs, the Danish authorities commit that, in the case of undertakings with average negative profits in the period 2015-2019, disregarding the year with the highest and the year with the lowest profit, the compensation will be reduced by that average amount (per year if the ban is extended to 2022).
- (31) Where mink farmers are compensated for a temporary shutdown of production, they cannot simultaneously receive support under Measure 2. However, mink

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<sup>8</sup> Commission Regulation (EU) 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014.

<sup>9</sup> See SA.61782, see link to the case: [https://ec.europa.eu/competition/eojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_61782](https://ec.europa.eu/competition/eojade/isef/case_details.cfm?proc_code=3_SA_61782). The Danish authorities plan to set up a further aid scheme under ABER.

farmers that choose a temporary shutdown may at any time decide to give up their production capacity to the State and receive support under Measure 2 instead, with a deduction of the compensation received for fixed costs in 2021 (and 2022, should the ban be extended beyond 2021).

- (32) The fixed costs as referred to in the recital (29) may include electricity, water and heating costs, certain wage expenses to ensure regular oversight of the buildings, and necessary expenses for accounting, tax reporting and the like. However, mink farmers and their staff will not receive general wage compensation under this measure, as they will have the opportunity to take on other work or alternatively receive regular unemployment/social benefits during the shutdown period. Thus, only specific wage costs related to necessary oversight, accounting, etc. can be covered under Measure 1.
- (33) Furthermore, Measure 1 may cover maintenance costs to the extent that these are necessary to keep the capital stock of the farm in the same shape as in 2020. However, only necessary maintenance can be covered, not improvements that have the characteristics of an investment and are not necessary at the given point in time.
- (34) The specific assessment of necessary fixed and maintenance costs, including necessary working hours and associated salary costs, will be assessed by a valuation commission after an individual inspection of both the physical farm and the farms accounts etc. The valuation commission will assess the fairness of all costs covered, including salary levels, to ensure that they are in line with market prices and reflecting the actual necessary costs.
- (35) In cases where sufficiently detailed financial statements do not exist, necessary fixed costs can be estimated based on financial statements from similar farms as assessed by a valuation commission.
- (36) It is a precondition to be eligible under the temporary shutdown measure that the mink farmer had an active business on 15 June 2020<sup>10</sup> and an own production of mink skin in 2020.

### 2.6.3. Measure 2

- (37) The calculation of the supporting grants to mink farmers who will give up their production capacity to the State will be based on a combination of the loss of expected future net earnings and the residual value of the capital stock. This will apply to mink farms with own production of mink skin in 2020.
- (38) It is a precondition to be eligible under the measure that the mink farmer had an active mink business on 15 June 2020 and an own production of mink skin in 2020.
- (39) For mink farmers with an active business on 15 June 2020 and with an own production of mink skin in 2018 or 2019 (but no own production of mink skin in 2020) that choose to transfer their production capacity to the State and thereby shut their business, the support will be calculated as the value of the mink farm (not including the land). The value of the mink farm will be assessed by a

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<sup>10</sup> Estimated date of when COVID-19 hit the Danish mink industry.

valuation commission and based on certain standard valuation principles to ensure uniform practice by the valuation commissions.

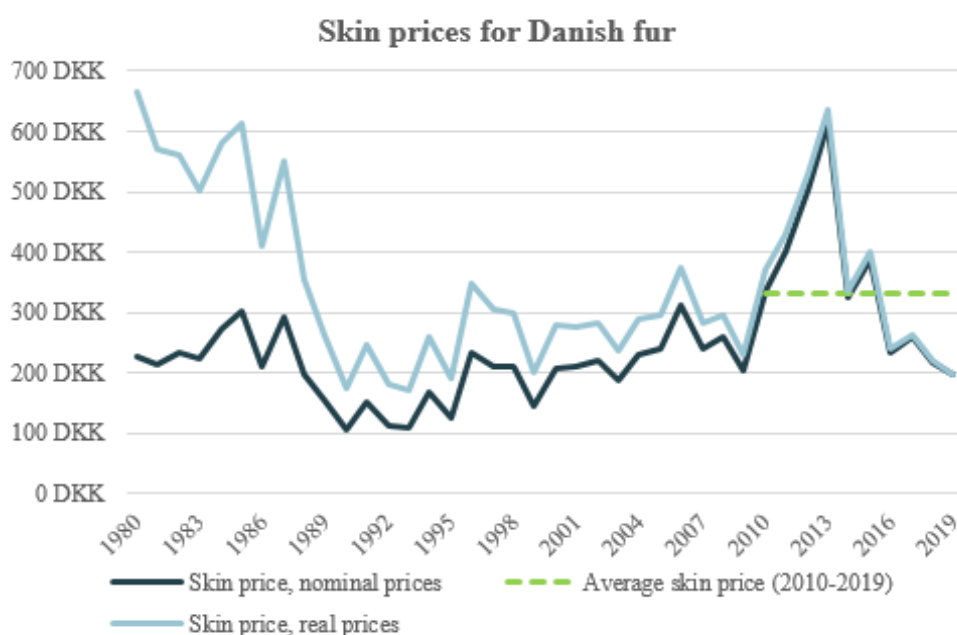
- (40) A precondition for benefitting from Measure 2 is that the State takes over the assets (all production equipment, stables, machinery, etc.), which will no longer be available to the mink farmers or related businesses (as defined in recital (67)). In case of indivisible assets (for example, buildings), the State will either take over the full asset and also offer full payment for the asset or no payment at all for that asset. This is necessary to avoid a situation where the State and business in question end up with a shared ownership of an asset, e.g. a building. The State will provide for the removal of all the production facilities it takes over.
- (41) Furthermore, taking into consideration that all minks were culled, including breeding animals, the potential earnings of the farmers' breeding schemes over the past years will also be lost. There is no residual value related to mink production left with the farmer.
- (42) The support will consist of two overall loss items: i) the loss of income as an estimated expected average earning for a ten year budget period; and ii) the residual value of the mink farmer's capital stock. The support will be based on a capitalization factor of 10 years.
- (43) Mink farmers and related businesses benefitting from Measure 2 will further be entitled to support to cover reasonable costs incurred from the beginning of November 2020 until the final valuation and take-over of the assets by the State takes place, in order to safeguard the assets in this period (such as insurance premium and necessary maintenance).
- (44) As an alternative to the calculation based on the loss of income in 2022-2030 and the residual value of the capital stock, the mink farmers may request that the support is calculated as the value of the mink farm (not including the land). The value of the mink farm will be assessed by a valuation commission based on certain standard valuation principles to ensure uniform practice.

#### *2.6.3.1 Loss of income*

- (45) The loss of income in 2021 (for production in 2020) will be compensated under the parallel aid schemes based on ABER Article 26(9) (as referred to in recital (28)), since the value of the minks culled in 2020 represents the loss of earnings in 2021.
- (46) The loss of income for 2022-2030 (for production in 2021-2029) will be based on three main components: estimated skin price, estimated number of minks and estimated operating costs.
- (47) The estimated skin price will be based on the average mink skin price for the period 2010-2019 (excluding the highest and lowest values). The average price per mink skin is DKK 332.75 (approximately EUR 44.75). The reason for using 2010-2019 is that 2019 is the latest, full available year where prices were not affected by the COVID-19 crisis. The Danish authorities submit that the choice of a historic reference period with a sufficient number of years allows to mitigate the volatility in data: this eliminates cyclicity and disregards obsolete data that may

not be relevant to current market conditions. Moreover, the highest and the lowest prices are omitted, in order to avoid potential outliers.

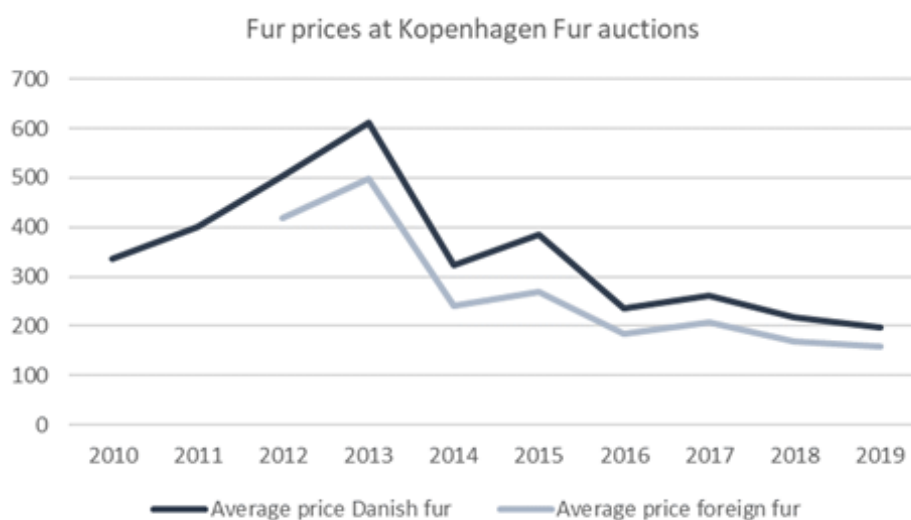
- (48) The Danish authorities argue that another reason for using a 10-year average is that the price is highly cyclical with prices fluctuating considerably from year to year. This is driven both by changes in the produced quantities, just like for most other goods, but in addition the demand for mink fur is volatile. It has been so historically, but the average price for 2019 represents an all-time low in prices over the past ten years. Thus, the Danish authorities submit that estimating expected earnings based on 2019 prices would imply a negative bias in the calculation model.
- (49) The annual demand is also influenced by a number of other factors, including the overall business cycles and changes in fashion. Particularly, this last element differentiates the mink fur market from the market for other types of agricultural products.
- (50) The historical auction prices for Danish mink fur can be found in the chart below (both real and nominal prices are illustrated). As seen in the chart, the choice of a ten year reference period from 2010-2019 allows to capture both a peak in prices in 2011-2013 and a subsequent slump in prices.



Source: Copenhagen Fur.

- (51) The calculations take into account the price of Danish fur, as opposed to a world market price, since this gives the most precise estimate of the expected future earnings, according to the Danish authorities. Comparing Danish and non-Danish mink fur on Copenhagen Fur's auctions, the Danish fur has historically fetched prices that are around 20 to 40 % higher than the non-Danish fur. This can be seen in the table below, which illustrate the prices for the period reference period 2010-2019.





Source: Kopenhagen Fur.

- (52) The average skin price will also be adjusted to account for the quality of the skin of the individual farmer. This adjustment will be based on the average of the farmer's actually achieved skin prices in 2017-2019 compared to the average skin price of all Danish mink farms in the same period. A cap will be introduced in the calculation so that a mink farmer cannot receive an upward adjustment of skin prices of more than 5% compared to the average.
- (53) To obtain an estimate of the expected future net earnings, one also needs to make assumptions on the expected number of mink produced on the farms. The number of minks that could have been produced on a farm in 2021-2029 will be based on an estimate of the number of minks produced in 2020 on that farm.
- (54) The operating costs under Measure 2 will be estimated based on an assessment of each mink farm carried out by the valuation commission. The operating costs will include salaries to the farmer and the employees. A cap will be introduced in the calculation so that a mink farmer cannot receive a downward adjustment of costs of more than 25% compared to the average. Furthermore, a cap on salaries will be introduced ensuring that costs for salaries to the farmer and the employees cannot be set lower than the negotiated salary for agricultural workers on the Danish labour market.
- (55) Finally, the expected earnings over the nine year period are discounted by a factor representing the average cost of capital for the mink farmers. The support for the loss of earnings will be discounted into the Net Present Value (NPV) with a discount factor set at 5.14% per year.
- (56) The discount factor is set at 5.14% per year to determine both the NPV of the lost future earnings, but also to calculate the NPV of any assets at the end of the 10-year period. The model captures the cost of capital for the mink farmers, including the alternative cost of equity.
- (57) To determine the discount factor, the starting point is the typical financing structure of mink farming in Denmark. Around 40% of the total financing can be covered by a mortgage lent by the special Danish mortgage credit system, around

30% by regular bank loans, and the remaining 30% needs to be raised in equity by hybrid debt instruments with equity like qualities.

- (58) To establish interest rates for mortgages and bank loans, 2019-data for mink farmers has been provided by the Danish financial supervisory authority, drawing on the Danish credit register.
- (59) To establish a cost of equity or equity-equivalent instruments, the Danish Growth Fund has provided their price on an equity-equivalent loan to agricultural businesses. These loans have an approximately 10% interest rate and can be used to cover the final 30-50% of the amount needed to finance agricultural investments. Therefore, they are considered an appropriate proxy for equity financing.
- (60) The overview of the calculations for the discount factor are detailed in the table below:

	Share of debt	Annual interest rate	Contribution to weighted average cost of capital
Mortgages	40%	1,6%	0,64%
Revolving credit facilities and other bank loans	30%	5,0%	1,50%
Equity	30%	10,0%	3,00%
Discount factor (WACC)			5,14%

#### 2.6.3.2 *The residual value of the mink farmer's capital stock*

- (61) The residual value in 2030 of the capital stock that would have been used to generate the earnings from 2021-2030 will be subsidised for each mink farmer. The support will be the residual value in 2030 discounted into the Net Present Value with a discount factor set at 5.14 % per year as described in recitals (56) to (60) above. For any “dual use” assets used in mink production that are also used in other types of businesses, typically other types of farming (e.g. tractors, barns), the mink farmer can choose to receive a full payment for the dual use asset and hand it over, or, alternatively, to receive no payment and keep the dual use asset. If the dual use asset is used more than 50% in the mink business the mink farmer cannot choose to keep the dual use asset.
- (62) The support will be calculated on the basis of i) the value of the capital stock in 2021 (excluding land value), ii) the residual lifetime of the capital stock, and iii) a linear depreciation. The value and the residual lifetime will be assessed by a valuation commission based on certain standard valuation principles to ensure uniform practice by the valuation commissions.
- (63) Regardless of the residual lifetime of the capital stock, the full depreciation of the capital stock will be calculated over a period of time not exceeding 15 years. If

the residual lifetime of the capital stock is less than 10 years, the calculation will take account of the costs required to prolong the service life of the assets to bring the residual lifetime up to the end of 2029.

#### *2.6.3.3 Capacity unused for own production of mink skins in 2020*

- (64) The support model takes the estimated number of minks in 2020 as the starting point for the calculation of the support. However, for some farmers that have had to shut down (part of) their production temporarily, this will not necessarily ensure a fair and comprehensive payment.
- (65) If the mink farmer had capacity (cages and stables) that was not used for the farmer's own production in 2020, the farmer will also be subsidised for the value of the unused capacity as assessed by a valuation commission. Their decisions will be based on certain standard valuation principles to ensure uniform practice by the valuation commissions.

#### *2.6.3.4 Considerations regarding businesses related to the mink industry*

- (66) The culling of all minks and the ban on mink farming until 2022 not only affects mink farmers, but also certain related businesses that are directly dependent on the industry.
- (67) Businesses that significantly rely on mink production will also be eligible for the support under Measure 2. Such business include, among others, specialised feed centres and providers, skinning factories, specialized transport companies, mink auction houses (the auctioneer Copenhagen Fur) and mink manufacturing businesses.
- (68) For an undertaking to be eligible under Measure 2, the following conditions must be fulfilled. The fulfilment will be assessed by a valuation commission:
  - a) At least 50% of the business' turnover in the period 2017-2019 is related to the Danish mink industry; and
  - b) the business cannot directly convert the affected production into other activities.
- (69) The first condition (a) does not apply in two cases:
  - for businesses that rent out stables to active Danish mink producers, provided that the required environmental permits to run the mink business are in place;
  - for pelting businesses that pelt Danish mink and are run together with a Danish mink farm.
- (70) The support will equal to the value of the part of the business that is related to the Danish mink sector (including land) and that cannot directly convert its production into other activities, and will be assessed by a valuation commission based on certain standard valuation principles to ensure uniform practice.
- (71) The model takes into account that all assets of the mink related part of the business (production equipment, buildings, land, intangible assets, etc.) will be

taken over by the Danish State and no longer be available to the businesses. As already noted in recital (40) above, a precondition for the support is that the State takes over the assets. However, in case of indivisible assets (for example buildings) that are only partly used for the mink related business, the State can take over the full asset and also offer a full payment for the asset. However, in a few cases, the business property might include the residence of beneficiaries. In such a case, beneficiaries will not be required to hand over the building which includes their residence to the State. Instead, the support will be calculated as the reduced value of the building due to the closure of the mink related business. All other assets related to the mink related business will be taken over by the State as a precondition for the support.

## **2.7. Administration of the measures**

- (72) The granting authority and managing authority for the aid scheme will be the Danish Veterinary and Food Administration.
- (73) For both Measure 1 and Measure 2, all valuations will be performed by a number of valuation commissions covering different regions of Denmark. The commissions will be appointed by the Danish Veterinary and Food Administration specifically to perform the valuations related to the scheme. The commissions will consist of a chairman and a number of members that together will possess competences and qualifications within law, appraisal, accounting and finance.
- (74) The time period in which beneficiaries can submit their applications for aid is from the approval of this scheme by the Commission until 1 January 2024. No aid will be granted or paid out before the notification of the approval decision by the Commission.
- (75) Along with the application, the applicant will have to submit the necessary documentation to support the claim for compensation or support:
  - a) For a temporary shutdown under Measure 1, the mink farmer will have to provide an estimate of the costs deemed necessary to ensure the running of the farm during the shutdown period. As these costs cannot be estimated based on historic costs (seeing that the costs will be lower when the farm is shut down than when it is up and running), a specific assessment of necessary costs will be made by the valuation commission in each case based on an inspection of the farm, the accounts and any other information the valuation commission deems necessary. All documentation submitted must be signed by a registered accountant.
  - b) For a transfer of the assets to the State under Measure 2, this is expected to include accounts, and if accounts are not sufficiently detailed, invoices that document the costs, documentation on the number of staff working on the mink farm and their salary levels (e.g. by forwarding pay checks), documentation on skin prices obtained in 2017-2019, data necessary to calculate the number of minks that would have been produced on the farm in 2021-2029, and information on any unused capacity on the farm.

- c) Regardless of the documentation submitted by applicants, the valuation commission can request any further supporting information and documentation deemed necessary to assess the correct compensation or support. Furthermore, the valuation commission will always be able to perform an onsite inspection to assess the shape and value of buildings and other capital stock, and to check the production capacity of the farm.
- (76) With regard to the granting procedure for Measure 2, the valuation process is expected to continue for several years, as certain elements of the support will depend on an individual valuation of each mink farmer by a valuation commission. Therefore, mink farmers with an own production of mink skins in 2020 that choose to transfer their production capacity to the State will be offered a preliminary support that will be deducted from the final support after the individual valuation. This preliminary support will be based on a limited fixed amount per estimated skin that would have been produced from 2021-2029. There will be no right to a preliminary payment if there is a risk that the final payment will be a lower amount.

## **2.8. Aid and aid intensity**

- (77) The aid intensity under the scheme in question is 100% of the damage as calculated in accordance with the methods for Measure 1 and Measure 2 set out in Section 2.6 above. The aid granted under the present scheme and any other payments to compensate for the losses as defined above must not exceed 100% of the amount of the losses incurred.

## **2.9. Cumulation**

- (78) Aid under the scheme cannot be cumulated with other aid for the same eligible costs.
- (79) The compensation under Measure 1 or support under Measure 2 will be reduced by any other aid or benefits (including insurance benefits) received in respect of COVID-19 that relates to the same eligible costs. In addition, other national aid related to COVID-19 granted after 1 October 2020 will be deducted provided that the aid relates to the mink business or the mink related business.
- (80) The Danish authorities have confirmed that the scheme is not co-financed by any of the European Funds.

## **2.10. Monitoring and reporting**

- (81) The Danish authorities confirm that they will apply the monitoring and reporting obligations laid down in section 4 of the Temporary Framework<sup>11</sup> both for Measure 1 and Measure 2, including the obligation to publish relevant information on each individual aid above EUR 10 000 granted under the

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<sup>11</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

measures on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>12</sup>. As explained below in recitals (141) and (142), the Temporary Framework is not directly applicable to Measure 2, but it will provide general guidance and its principles will be applied *mutatis mutandis* as far as appropriate.

- (82) The Danish authorities have also committed to keep detailed records for 10 years upon granting of the aid and to provide these to the Commission upon request. Such records will contain all information necessary to establish that the necessary conditions set out in the Commission's decision approving the aid have been observed.
- (83) The Danish authorities also commit to submit annual reports in line with the requirements of Commission Regulation (EC) No 794/2004<sup>13</sup>.

### **3. ASSESSMENT**

#### **3.1. Lawfulness of the aid**

- (84) The aid scheme was notified to the Commission on 15 March 2021. It has not been implemented yet. Therefore, Denmark has complied with its obligation under Article 108(3) TFEU.

#### **3.2. Existence of aid**

- (85) 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.
- (86) The measures are imputable to the State, since they are administered by the Danish Veterinary and Food Administration (recital (72)) and are based on the national legal basis mentioned in recital (9). They are financed through State resources, since they are financed by the State budget of Denmark (recital (11)).
- (87) The measures confer an advantage on its beneficiaries in the form of a direct grant (recital (8)). The measures thus confers on those beneficiaries an advantage that they would not have had under normal market conditions.
- (88) The advantage granted under the measures is selective since it is awarded only to certain producers, in particular to undertakings active in the mink farming industry and related businesses (recital (12)).

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<sup>12</sup> Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

<sup>13</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 140 30.4.2004.

- (89) The measures are liable to distort competition since they strengthen the competitive position of their beneficiaries. They also affect trade between Member States since those beneficiaries are active in sectors in which intra-Union trade exists.
- (90) In view of the above, the Commission concludes that the measures constitute State aid within the meaning of Article 107(1) TFEU. The Danish authorities do not contest that conclusion. Due to the fact that the notified measure is an act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner (see recitals (9) and (12), the Commission considers that it is an aid scheme within the meaning of point (35)<sup>4</sup> of the Guidelines. The scheme may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

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

- (91) Since the measures involve State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether the measures are compatible with the internal market. In this case, Measure 1 will be assessed under article 107(2)(b) TFEU, while Measure 2 will be assessed under Article 107(3)(b) TFEU.

#### ***3.3.1. Application of Article 107(2)(b) TFEU***

- (92) Under Article 107(2)(b) TFEU, aid shall be considered compatible with the internal market if it is found to make good the damage caused by natural disasters or exceptional occurrences.

##### *3.3.1.1. The notion of exceptional occurrences within the meaning of Article 107(2)(b) TFEU*

- (93) Article 107(2)(b) TFEU stipulates 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-law<sup>14</sup> has consistently held that the notions of ‘natural disaster’ and ‘exceptional occurrence’ referred to in Article 107(2)(b) TFEU must be interpreted restrictively.
- (94) The characterization 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 field<sup>15</sup>. In this regard, the following indicators relating to the event concerned

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<sup>14</sup> Judgement of the Court of Justice of 11 November 2004, Spain v. Commission, C-73/03, ECLI:EU:C:2004:711, paragraph 37 and judgment of the Court of Justice of 23 February 2006, Giuseppe Atzeni and others, in joined cases C-346/03 and C-529/03, ECLI:EU:C:2006:130 paragraph 79.

<sup>15</sup> 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).

must be cumulatively met: (i) unforeseeable or difficult to foresee<sup>16</sup>; (ii) significant scale/economic impact<sup>17</sup>, and (iii) extraordinary<sup>18</sup>.

### 3.3.1.2. *The COVID-19 outbreak is an exceptional occurrence*

- (95) Following the first reports of cases of acute respiratory syndrome (COVID-19) in the Wuhan municipality in China 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 has also spread to the majority of countries worldwide, including all Member States. Outbreaks of novel virus infections among people are always a public health concern and can have a significant economic impact. Specific sectors and areas are particularly affected by the outbreak, be it because of national outbreak control measures, travel restrictions or supply chain disruptions.
- (96) On 11 March 2020, the WHO characterised the COVID-19 disease as a pandemic. The public health risk deriving from the absence of therapeutics or vaccines for the novel COVID-19 virus determine the exceptionality of the circumstances. The rapidity of the spread can cause enormous consequences both in terms of fatal outcomes in high-risk groups and in terms of economic and societal disruption.<sup>19</sup> 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 disruptions of various economic sectors, which is clearly outside the normal functioning of the market.
- (97) From March 2020, Member States adopted various measures that aim to limit the spread of the coronavirus, e.g. travel restrictions for non-essential travels, closure of borders, obligation for companies to organise working from home for every position where this is possible and various social distancing measures.
- (98) 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. The General Court has recognised that “[...] *it is indisputable that the Covid-19*

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<sup>16</sup> Commission Decision of 1 August 2008, case SA.32163, Remediation of damage to airlines and airports caused by seismic activity in Iceland and the volcanic ash in April 2010, Slovenia, paragraph 31.

<sup>17</sup> 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 on 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 on case SA.33487, Agricultural and fisheries aid to compensate for damage due to exceptional occurrence (red mud "Aluminium accident"), Hungary, paragraph 35; Commission Decision of 2 May 2002 on case N241/2002, Régime en faveur des entreprises victimes de la catastrophe industrielle de Toulouse, France, paragraph 19), the immense ecological and economic damage (Commission Decision of 11 April 2012 on case SA.33487, paragraph 36), the amount of material damage despite the local character of the industrial accident (Commission Decision of 2 May 2002 on case N 241/2002, paragraph 19).

<sup>18</sup> In its Decision of 19 May 2004 in case C-59/2001 (OJ L 62, 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

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



*pandemic constitutes an exceptional occurrence within the meaning of Article 107(2)(b) TFEU*<sup>20</sup>

- (99) In this context, the COVID-19 outbreak can be considered as an exceptional occurrence within the meaning of Article 107(2)(b) TFEU

*3.3.1.3. Causal link between the damage to be compensated for by the notified scheme and the COVID-19 outbreak*

- (100) The Court has held that only damage caused by natural disasters or exceptional occurrences may be compensated for under Article 107(2)(b) TFEU. It follows that there must be a direct link between the damage and the exceptional occurrence for which the State aid measure provides compensation and that an assessment as precise as possible must be made of the damage suffered by the beneficiary concerned.<sup>21</sup> The COVID-19 outbreak qualifies as an exceptional occurrence (see recitals (95) to (99)).
- (101) In that regard, the assessment has led to the following observations:
- (102) As of mid-March 2020, the Danish authorities adopted several containment measures in response to the COVID-19 outbreak, to combat its further spread.
- (103) After the Danish Veterinary and Food Administration discovered COVID-19 in a mink farm in the North Jutland Region of Denmark (Nordjylland) on 17 June 2020, they decided to cull the minks in the infected farm, as described in recital (17) above. The infections further spread in the mink farms at a staggering speed and reached the human population, which led to an escalation of the government measures to contain the outbreak, as described in recitals (18) to (25).
- (104) Finally, on 4 November 2020, the Danish Government decided that all minks in Denmark should be culled. This decision was based on the developments mentioned in recitals (16) to (22) and the discovery of a new mutated variant of COVID-19 (cluster 5) as described in recital (25). The Danish authorities further imposed a lockdown in the North Jutland Region of Denmark to limit the spread of COVID-19 cluster 5 and, as explained in recital (22), banned the keeping of mink until 2022 in order to avoid a similar situation developing in 2021.
- (105) As of 6 December 2020, because of the measures taken by the Danish government, 1025 mink farms had completed the culling of their minks, out of the total number of Danish mink farms (approximately 1100). As described in recital (26), these extraordinary measures not only effectively shut the entire mink industry in Denmark for some years, but also seriously hinder the possibility of restarting the activity from scratch.
- (106) In light of the above, the Commission considers that, there is a damage suffered by the beneficiaries in respect of the culling of minks (already compensated through Article 26 ABER, as referred to in recital (28)) and the intertwined ban

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<sup>20</sup> See judgment of 17 February 2021 in Case T-259/20 Ryanair v Commission, ECLI:EU:T:2021:92, paragraph 26.

<sup>21</sup> See Joined Cases C-346/03 and C-529/03 Atzeni and others [2006] ECR I-1875, paragraph 79 and the case-law cited; Case C-73/03 Spain v Commission, judgment of 11 November 2004, paragraph 37.

on their mink farming activities, and that this damage is directly linked to the exceptional occurrence.

- (107) The direct link between the damage caused by the exceptional occurrence and the aid is therefore ensured.

#### *3.3.1.4. Proportionality of the aid measure*

- (108) 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; it should only make good the damage caused by the exceptional occurrence.
- (109) As described in recital (29) above, the damage for the mink farmers who will have to cease production until 2022 (tentatively) will be compensated by covering all fixed costs (including operating costs such as maintenance of equipment, general maintenance, etc.).
- (110) Bearing in mind that the compensation is limited by a maximum aid intensity (100% of the eligible costs), the scheme ensures that there is no overcompensation (and fulfils point 345 of the Guidelines, as it will be analysed below).
- (111) Moreover, the Danish scheme includes a safeguard for undertakings with negative profits in the in the period 2015-2019, disregarding the year with the highest and the year with the lowest profit, for which the compensation will be reduced by that average amount (see recital (30), for justification as to why the highest and the lowest prices are omitted see recital (47)). This ensures a rigorous damage calculation.
- (112) Furthermore, the Danish authorities have put in place the following safeguards so that the compensation under the notified measure does not exceed what is necessary to make good the damage and thus meets the above-mentioned criteria:
- (113) First, as described in recital (35), an independent valuation commission will be in charge of assessing the actual, necessary fixed costs and maintenance costs on the specific farm during the shutdown period, making sure that the amount of compensation only covers the actual damage. Only necessary maintenance costs can be covered, not improvements, as stated in recital (33). Moreover, as described in recital (34), the valuation commission will assess the fairness of all costs covered, including salary levels, to ensure that they are in line with market prices.
- (114) Second, as also described in recital (35), in cases where sufficiently detailed financial statements do not exist, the valuation commission will estimate the necessary fixed costs based on financial statements from similar farms.
- (115) Third, as described in recital (75), the aid application must include supporting documents, such as accounts and any other information of the real eligible costs for which the company applies for compensation. All documentation submitted must be signed by a registered accountant, and it will be subject to the assessment of the valuation commission. Moreover, the valuation commission will carry out on-site inspections.

- (116) Fourth, aid under the notified measure will not be cumulated with any other aid in relation to the same eligible costs (recital (78)). In addition, as described in recital (79), other national aid related to COVID-19 will be deducted.
- (117) Finally, as described in recital (79), payments made to beneficiaries are net of any amount recovered through insurance or other sources for the same damage. Moreover, as described in recital (32), only specific wage costs related to necessary oversight, accounting, etc. can be covered under Measure 1, not general wage compensation.
- (118) Therefore, the Commission concludes that the scheme includes sufficient safeguards that the aid covers only damage caused by the governmental measures to stop the spread of COVID-19 and that the aid is proportional.

#### *3.3.1.5. Application of the specific provisions defined in the Guidelines*

- (119) As regards the notified measure, the Guidelines specify, in particular in Part II, Chapter 1, Section 1.2.1.1: "*Aid to make good the damage caused by natural disasters or exceptional occurrences*", in which context and under what conditions aid with regard to natural disasters or exceptional occurrences is compatible with the internal market pursuant to Article 107(2)(b) TFEU. Point (327) of the Guidelines provides that such aid is considered compatible with the internal market if it fulfils the conditions laid down in that Section.
- (120) Measure 1, which refers to mink farmers as mentioned by recital (12), that is, undertakings active in primary agricultural production, relates to aid in the agricultural sector (12). Therefore, it is consistent with point 328 of the Guidelines.
- (121) As laid down in point 329 of the Guidelines, the notion of 'exceptional occurrence' referred to in Article 107(2)(b) TFEU must be interpreted restrictively.
- (122) Pursuant to point 330 of the Guidelines the Commission will continue assessing the proposals for the granting of State aid under Article 107(2)(b) TFEU on a case-by-case basis, taking into account its past practice in this field. The COVID-19 outbreak and the measures adopted by the Danish authorities can be considered as an exceptional occurrence under Article 107(2)(b) TFEU as concluded in recital (99). The notified measure has as an objective to compensate producers in the agricultural sector for the damage caused by the ban on mink farming and the collapse in demand for the products and services of related businesses, as a consequence of the measures taken in Denmark to combat the COVID-19 pandemic. The notified scheme is assessed in accordance with the provisions laid down in point 330 of the Guidelines.
- (123) Point 331(a) of the Guidelines lays down that the competent authority of the Member State must have formally recognised the character of the event as an exceptional occurrence. As concluded in recital (98), the Commission considers that the coronavirus outbreak qualifies as an exceptional occurrence within the meaning of Article 107(2)(b) TFEU. As a result, the interventions by Denmark to compensate for the damage linked to the outbreak and the government measures to combat it are justified.

- (124) Point 331(b) of the Guidelines provides that there must be a direct causal link between the exceptional occurrence and the damage suffered by the producer. It follows from recital (106) that point 331(b) of the Guidelines is complied with.
- (125) Point 332 of the Guidelines is not relevant for the present case because the criteria on the basis of which the formal recognition referred to in point 331(a) is deemed to be granted, are not being established in advance.
- (126) As indicated in recital (8), according to the notified measure, support will be directly paid to the beneficiaries in the form of direct grants, in compliance with point 333 of the Guidelines.
- (127) In line with point 334 of the Guidelines, it follows from recital (10) and recital (29) (as the choice of compensation for temporary shutdown will only be possible until 1 January 2022, or end of 2022 should the ban be extended) that the measure will be established, and aid be granted, within the maximum delays set out in that point.
- (128) Since the notified measure is not an ex-ante scheme, points 335 and 336 of the Guidelines are not applicable.
- (129) In accordance with point 337 of the Guidelines, it follows from recital (107) that the eligible costs are the costs of the damage which results from the exceptional occurrence, which will be assessed by an independent expert recognized by the granting authority.
- (130) The type of damage covered by this measure (Measure 1, i.e. the damage to assets: buildings, equipment, machinery, means of production, etc.) caused by the temporary shutdown, as described in recital (29) is consistent with point 338(a) of the Guidelines.
- (131) Recital (35), describing the method for assessing the fixed costs, demonstrates that the damage will be calculated at individual beneficiary level (individual farm), as required under point 339 of the Guidelines.
- (132) Points 340 to 343 of the Guidelines are not applicable, as point 344 provides that the Commission will accept other methods for the calculation of damage provided it is satisfied that these are representative, not based on abnormally high yields and do not result in the overcompensation of any beneficiary.
- (133) The assessment carried out in recitals (113) to (115) confirms that the calculation of damage does not result in the overcompensation of any beneficiary.
- (134) The maximum aid intensity under the scheme is 100% (recital (77)) of the eligible costs. Any other compensation (including insurance payments), that is received for the same damage will be deducted from the compensation under the present scheme (recital (79)). Moreover, as described in recital (32), only specific wage costs related to necessary oversight, accounting, etc. can be covered under Measure 1, not general wage compensation. Therefore the aid is proportionate, as already concluded above in section 3.3.1.4. Since compensation under the scheme respects the maximum percentage of 100% of the eligible costs, the condition of point 345 of the Guidelines is fulfilled.

- (135) The Commission also notes that the aid will not be granted to undertakings which are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market (recital (15)).
- (136) By way of derogation from the general principle and in accordance with point (26) of the Guidelines, aid may be granted to undertakings in difficulty as defined in point (35)15 of these Guidelines.
- (137) On the basis of the above-mentioned considerations, Measure 1 fulfils the applicable conditions of the Guidelines and is eligible for the derogation provided for in Article 107(2)(b) TFEU.

### **3.3.2. Application of Article 107(3)(b) TFEU**

- (138) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (139) The Commission has acknowledged<sup>22</sup> that “the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings”. The Commission concluded that “State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs”. In the same vein, the General Court has recognised the existence of a serious disturbance in the economy of a Member State as a result of the Covid-19 pandemic<sup>23</sup>.
- (140) The Commission notes that the Danish authorities have notified Measure 2 under Article 107(3)(b) TFEU. According to its point 16, the Temporary Framework does not prevent Member States from notifying alternative approaches to remedy a serious disturbance in their economy under Article 107(3)(b) TFEU.
- (141) While the Commission has provided guidance in the Temporary Framework as to when aid under Article 107(3)(b) TFEU can be declared compatible with the internal market in light of the current shock to the economy, the Temporary Framework is not directly applicable to the measure proposed by Denmark, as it cannot fully cover an event of such magnitude. In particular, the overall aid limits and duration of point 22 of the Temporary Framework are not fit for the reorganisation of industries on public health grounds and as an action to safeguard public health.
- (142) Therefore, the measure proposed by Denmark has to be assessed based on general criteria for compatibility under Article 107(3)(b) TFEU. However, the Temporary Framework can provide general guidance and its principles can be applied *mutatis mutandis* as far as appropriate.

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<sup>22</sup> Temporary Framework, Section 2.

<sup>23</sup> See judgment of 17 February 2021 in Case T-238/20 Ryanair v Commission, ECLI:EU:T:2021:91, paragraph 33.

- (143) As for any derogation from the prohibition on State aid enshrined in Article 107(1) TFEU, the compatibility exception pursuant to Article 107(3)(b) TFEU provision must be interpreted and applied restrictively. Such a strict application requires taking into account, in particular, the nature and the objective seriousness of the disturbance of the economy of the Member State concerned, on the one hand, and the appropriateness, necessity and proportionality of the aid to address it, on the other. It also requires taking into account the possibly systemic importance and position of the beneficiaries and the sector concerned and any safeguards proposed to avoid undue negative effects on competition and trade between Member State

#### *3.3.2.1. Appropriateness*

- (144) In order to be appropriate, the aid has to be well targeted to its objective, i.e., in this case to remedy a serious disturbance in the economy. This would not be the case if the disturbance would also disappear in the absence of the measure or if the measure is not appropriate to remedy the disturbance.
- (145) The COVID-19 pandemic continues to create uncertainty and a need for urgent and decisive actions by national authorities. Since the first outbreak in Wuhan, the lack of timely reactions by national authorities has affected entire populations, neighbouring countries and, eventually, the whole world.
- (146) Against this background, the finding of a mutated variant of COVID-19 called cluster 5, identified by the scientific community as a potential threat to the effectiveness of a future vaccine against COVID-19, required an urgent and decisive action from Denmark.
- (147) In order to remedy the serious disturbance in their economy generated by the effects of Covid-19 in this particular sector and related businesses, the Danish authorities consider appropriate to propose to mink farmers and related business operators a rather radical measure, which is closing their business and selling the assets to the State. To achieve this purpose, the Danish authorities intend to grant to the farmers and other operators a support, calculated according to the methodology set out in the present Decision and corresponding to the estimated value of the business or part of business closed.
- (148) As described in recital (22), the public health situation had the potential to spill over to the whole Danish economy, causing severe consequences if restrictions against Denmark were introduced by other countries. This concern was confirmed by the introduction of such restrictions by other countries, as described in recital (23).
- (149) Denmark thus deemed paramount to ban mink farming until 2022, in order to avoid the recurrence of a similar situation in 2021. This decision took into consideration that Denmark is the largest producer of mink skins in the world (approximately 40% of the world production) and that, before the culling, there were approximately 15.5 million minks in Danish mink farms (see recital (22)). Such a large population of minks, kept in an environment that created circumstances inevitably leading to mutations of COVID-19, was deemed a threat to worldwide public health.

- (150) This particular risk relating to the environment in which minks are kept has led the Danish authorities to not only ban mink farming until 2022, but also to offer the possibility to farmers and related businesses of relinquishing all their assets to the Danish State. The objective behind this measure is to intensify the effects of the ban and guarantee global public health, due to the uncertainty surrounding novel mutations of the virus, already having appeared in several countries in the course of a short time.
- (151) The uncertainty of the situation and the constant threat of mutations is acknowledged by the scientific community. The Commission follows closely, together with the European Centre for Disease Prevention and Control (ECDC) and the European Food Safety Authority (EFSA) new developments including mutations, facilitating sharing results and experiences<sup>24</sup>. ECDC has provided a Rapid Risk Assessment about the detection of new SARS-CoV-2 variants related to mink<sup>25</sup>. A technical risk assessment and review of surveillance measures in certain animals<sup>26</sup> is currently in preparation by EFSA. A research project called COVRIN was also launched within the One Health European Joint Programme<sup>27</sup>.
- (152) Moreover, as explained in recital (25), the potential of mink farms to spread COVID-19 to the local population, has already been proven. The decisions of the Danish authorities are therefore based on real and serious concerns, as it has been found that half of the COVID-19 infections in humans in the North Jutland Region can be traced back to mink farms.
- (153) The Commission understands that the measures are necessary to protect public health worldwide, particularly because the threat of a mutated variant of COVID-19 rendering the efforts of ongoing investigations for COVID-19 vaccines futile is not unfounded. The vast number of minks living in farms in Denmark (holding approximately 15.5 million minks before the culling, as stated in recital (22)) and conditions surrounding such an environment call for an approach where the magnitude of the industry needs to be scaled down. The possibility of handling all production capacity to the State on top of the temporary ban to mink farming takes into account the uncertainty of the situation and amplifies the effects of the ban and helps prevent more undesirable effects to the economy.
- (154) The Commission thus notes that the ban on mink farming until 2022 and the supplementary possibility to opt for relinquishing all production capacity have been done with a view to safeguard the whole Danish economy, which could have suffered severely due to restrictive measures –affecting all sectors- adopted by its own authorities and those of other countries.
- (155) In light of the above, the Commission considers that the measures taken were appropriate, in that the primary aim of giving up all production capacity on top of

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<sup>24</sup> E.g. the World Organisation for Animal Health (OIE), World Health Organisation (WHO), Chief Veterinary Officers of the Member States, Standing Committee on Plants, Animals Food and Feed, written exchanges etc.

<sup>25</sup> <https://www.ecdc.europa.eu/en/publications-data/detection-new-sars-cov-2-variants-mink>

<sup>26</sup> in minks and other animals of the family Mustelidae.

<sup>27</sup> This Programme will investigate the risk of reservoirs of coronaviruses (including minks) for infection of humans.

the ban on mink farming is the protection of public health. In particular, the Commission considers that the measure has the intended effect of reducing the risk of threatening COVID-19 mutations, which could render the worldwide efforts to create effective vaccines futile.

- (156) The Commission recognises that the COVID-19 outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States. The measure is important for preserving the current scientific efforts to develop an effective vaccine. This will in turn ensure economic continuity, which would have likely been disrupted by new restrictive measures in the case of an outbreak of a new mutation. The measures also prevent the likely calamitous effects of COVID-19 from multiplying, thereby avoiding a significant deterioration of the economic situation in Denmark, if not EU or world-wide.
- (157) The Commission therefore considers that the measures are appropriate to remedy a serious disturbance in the economy of Denmark.

#### 3.3.2.2. *Necessity*

- (158) In order to meet the compatibility criterion of necessity, the aid measure must, in its amount and form, be necessary to achieve the objective. That implies that it must be of the minimum amount necessary to reach this objective.
- (159) The situation created by the decision to ban mink farming until 2021 creates an extreme state of unpredictability for mink farmers and related businesses. The mink farmers' economic foundation and livelihood have been taken away, and the outlook to re-establish their business is uncertain. For most Danish mink farmers, it will most probably be unattainable to re-establish their businesses in 2022 when the ban is expected to be lifted.
- (160) The loss of employment caused by the dismantling of the mink fur industry due to COVID-19, as described in recital (26), will inevitably impact the regions (and their residents) where the facilities are located.
- (161) Therefore, the measure is necessary to support the mink farmers and related business for the extraordinary measures and ensure their possible reestablishment and restructure towards other activities.
- (162) The measure, allowing for the relinquishment of all their assets to the Danish State, is indeed necessary to amplify the effects of the ban until 2022 and guarantee global public health, and to counteract a serious disturbance in the economy of Denmark.
- (163) The safeguards applied in the calculation method guarantee that the aid is limited to what is necessary, and no other programme from the State budget grants support for giving up production capacity to the State. The funding granted to beneficiaries under Article 107(2)(b) TFEU (Measure 1), does not overlap with the funding under Measure 2. As described in recital (31), mink farmers that are compensated for a temporary shutdown cannot simultaneously benefit from Measure 2 and, should they decide to transfer their production capacity to the State, the support received will be deducted of the fixed costs already paid.
- (164) Moreover, with regard to the amounts, as noted in recital (76), since the valuation process is expected to continue for several years, the preliminary support – which



will not be granted if there is a risk that the final payment will be a lower amount - will be deducted from the final payment after the individual valuation.

- (165) Furthermore, the involvement of a valuation commission in all the steps of the calculation of the support, as described in recitals (54), (62) and (65), safeguards that the amounts are the minimum necessary to reach the objective.
- (166) In its form, the choice of a support for mink farmers based on the combination of the loss of expected future net earnings and the residual value of the capital stock, as described in recital (37), makes it possible to ensure that the measure is necessary to meet the objective pursued.
- (167) Moreover, the conditions to receive aid (particularly for related businesses, as detailed in recitals (67) to (71)), also guarantee that the measure in its form is limited to the minimum necessary to meet its objectives, in that it only addresses companies affected by the measures taken to contain a potential outbreak of a COVID-19 mutation.
- (168) As stated in recital (142) above, the Temporary Framework – although not directly applicable – serves as a reference point to identify relevant principles to assess the measure. *Mutatis mutandis*, the following conditions of section 3.1 of the Temporary Framework are fulfilled:
- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (11). The measure therefore complies with point 22(b) of the Temporary Framework.
  - Aid under the scheme is not fixed on the basis of the price or quantity of products put on the market. The measure therefore complies with point 23(b) of the Temporary Framework.
- (169) Although the measure is assessed directly under Article 107(3)(b) TFEU, Denmark has confirmed that it will respect the applicable monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (recital (81)). The Danish authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (78) and (79)).
- (170) Based on the above, the Commission concludes that Measure 2 follows a rigorous method of calculation with sufficient safeguards, so that the amount and form of the support is limited to what is necessary to achieve the objective pursued of protecting public health, which should also prevent the serious disturbance that an outbreak of COVID-19 mutation would have on the Danish economy. No less distortive instrument is available that would be as effective. The Commission therefore concludes that the measures are necessary to the objective of mitigating a serious disturbance of the Danish economy.

#### 3.3.2.3. *Proportionality*

- (171) The positive effects of the measure must be properly balanced against the distortions of competition, in order for the distortions to be limited to the minimum necessary to reach the measure's objectives.

- (172) The two components for calculating the support are, as described in recital (37) above, the Net Present Value (“NVP”) of the estimated expected (loss of) average earnings for a future ten-year period and the residual value of the capital stock after ten years.
- (173) For the calculation of the NVP of the expected net earnings, the expected earnings minus the expected costs are taken into account, as follows:
- The price per mink is set at the average auction price over the past ten years, disregarding the highest and lowest value. The average skin price will also be adjusted to account for the quality of the skin of the individual farmer. This adjustment will be based on the average of the farmer’s actually achieved skin prices in 2017-2019 compared to the average skin price of all Danish mink farms in the same period. The Commission considers that the calculation as established in recitals (47) to (52) has been properly justified, and that the cap referred to in recital (52) further ensures proportionality;
  - The production cost per mink is assessed by an independent assessor based on the actual farm’s accounts. The Commission considers this ensures a representative appraisal. Moreover, the introduction of a cap in costs and a further cap on salaries (as described in detail in recital (54)) safeguards the proportionality of the support.
  - The number of mink per year is calculated based on number of breeding animals in 2020, as detailed in recital (53). The Commission notes that this choice represents a realistic outlook of the mink population, being the last year (without including the months when the culling took place) with available data.
  - The expected future net earnings are discounted to get an estimated net present value representing the support to the farmer. As explained in recital (56), the discount factor is set at 5.14% per year to determine both the NPV of the lost future earnings, and to calculate the NPV of any assets at the end of the 10-year support period. This is further analysed in recital (177) below.
- (174) With regard to the valuation of the assets, the Commission notes that an independent assessor (valuation commission) will first assess the value of the assets (production equipment, stables, machinery etc.) in 2021 and then compute the residual value after ten years by using an annual depreciation (based on a linear depreciation of the 2021-value over the estimated remaining lifetime of the assets).
- (175) As the reference periods for the two calculations of the support (NPV of the estimated expected average earnings and the residual value of the capital stock) do not overlap each other, the risk of overpayments seems, from a time and a valuation point of view, to be avoided.
- (176) As noted in recital (71), the support model takes into account that all assets (production equipment, stables, machinery etc.) will be taken over by the Danish State and no longer be available to the mink farmers or related businesses. All assets are fully seized, thereby losing their complete value. In this respect, the

Commission considers that it is a realistic assumption that the NVP of future net earnings for a ten-year period represents the current value of the company. The future net earnings represent the value of (what can be earned with) all the assets (production capacity) and thus the value of the company.

- (177) Because the expected future earnings are discounted to the estimated NVP, an actual (market) value is obtained. The discount factor (%) for obtaining the NVP would be based on the average cost of own capital and loan capital of mink farmers, as detailed in recitals (56) to (60). The valuation (of the loss of value) of the assets or a company by means of the NPV of future net earnings is a generally accepted economic valuation method.
- (178) The Commission notes that the calculation of the residual value of the capital stock takes account of the present value minus the depreciation over the next ten years, thus paying for the (lower) remaining residual value after ten years and thus avoiding overpayments.
- (179) With regard to the further support to cover reasonable costs incurred from the beginning of November 2020 until the final valuation and take-over of the assets by the State takes place (as described in recital (43), in order to safeguard the assets in this period), the Commission notes that this is in line with the granting procedure for Measure 2 as described in recital (76), since the valuation process is expected to continue for several years.
- (180) Finally, with regard to related businesses, as described in recital (70), the support will only include the value of the part of the business that cannot directly convert its production into other activities, as assessed by a valuation commission.
- (181) The Commission therefore considers that, in the present case, the calculations of the support are tailored to the mink farming sector and related businesses, based on representative reference data, individual appraisals and acceptable valuation and depreciation methods.
- (182) The Commission therefore concludes that the features described above ensure that the measures are proportionate to the objective pursued. They do not create excessive negative effects on the proper functioning of the internal market, taking into account their utility as to the objective of protecting public health and mitigating a serious disturbance of the Danish economy.

### **3.3.3. *Conclusions on compatibility***

- (183) Based on the above considerations, the Commission concludes that Measure 1 of the scheme is compatible under Articles 107(2)(b) TFEU and Measure 2 of the scheme is compatible under 107(3)(b) TFEU.

## **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the aid scheme on the grounds that it is compatible with the internal market pursuant to Articles 107(2)(b) (as regards Measure 1) and 107(3)(b) (as regards Measure 2) of the Treaty on the Functioning of the European Union.

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:  
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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