

EUROPEAN COMMISSION



Brussels, 25.10.2021
C(2021) 7557 final

PUBLIC VERSION

This document is made available for
information purposes only.

**Subject: State aid SA.62065 (2021/N) – Denmark
Prolongation of the Danish tax deduction scheme for seafarers**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 2 September 2021, following pre-notification contacts¹, the Danish authorities notified to the Commission, in accordance with Article 108(3), of the Treaty on the Functioning of the European Union (“TFEU”), of their intention to prolong the existing Danish tax deduction scheme for seafarers (“the measure”).
- (2) On 28 September 2021, the Commission services sent a Request for Information to the Danish authorities, to which the Danish authorities replied on 5 October 2021.
- (3) The scheme “Fiscal measures applicable to seafarers on board Danish ships” was originally approved by the Commission on 13 November 2002 in case NN 116/1998² and provided for income tax exemptions and income tax deductions for seafarers employed on board ships registered in the Danish International Ship Register (“the *DIS Register*”) and the Danish Register for Shipping (“the *DAS*”).

¹ On 23 February 2021, the Danish authorities submitted a pre-notification to the Commission services. The Commission services requested additional clarifications on 21 April and 29 June 2021, to which the Danish authorities replied, respectively, on 4 May and 6 July 2021.

² Commission decision of 13 November 2002 in case NN 116/1998, OJ C 28, 31.1.2004, p. 2.

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

Register”)³. An amendment of that scheme was approved by the Commission on 21 March 2012⁴ (“the initial scheme”). Then, the Danish authorities notified a prolongation of the initial scheme as well as an extension of it to include research vessels, which were respectively approved in 2018⁵ and 2020⁶. Both the 2018 prolongation and the 2020 extension were approved for a limited period of time and will expire on 31 December 2021. The notified measure prolongs and amends the scope of the scheme as approved in 2020 (“the existing scheme”).

- (4) Denmark exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,⁷ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

2.1. The scope of the existing scheme

- (5) The Danish authorities explain that the existing scheme consists in a partial income tax reduction applicable to seafarers who meet the eligibility conditions. Such income tax reduction enables ship-owners to reduce their wage costs.
- (6) In particular, pursuant to the existing scheme, seafarers working on board Danish or other EU/EEA flagged vessels may individually deduct an amount of DKK 56 900⁸ from their annual taxable income before the calculation of their income tax⁹, provided that the vessel exclusively carries out maritime transport activities. If the vessel has a gross tonnage of 500 tons or more, the tax deduction is increased to an amount of DKK 105 000¹⁰. If the conditions for applying the tax deduction are not met throughout the entire year (i.e. 365 days), the deductible amount is proportionally reduced.
- (7) To ensure compliance with the Community guidelines on State aid to maritime transport (“Maritime Guidelines”)¹¹, an amendment limiting the initial scheme to seafarers working on board of EU or EEA flagged ships was adopted by the

³ See in particular recitals 18 and 20 of the Decision in case NN 116/1998.

⁴ Commission decision of 21 March 2012 in SA.33651 (2011/N), OJ C 142, 22.5.2012, p. 3.

⁵ Commission decision of 17 May 2018 in SA.46852 (2016/N), OJ C 406, 9.11.2018, p. 4.

⁶ Commission decision of 9 July 2020 in SA.55760 (2020/N), OJ C 260, 7.8.2020, p. 1.

⁷ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁸ Corresponding to approx. EUR 7 651, see https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro_fr, exchange rate on 16 September 2021.

⁹ More specifically, before the calculation of the Municipal tax and Church tax. In this respect, the Danish authorities explained that according to the general rules of income taxation in Denmark, income taxation may be divided into several categories, including State tax, Municipal Tax, Church Tax and other labour market contributions, see also recital (5) of the decision in SA.55760 (2020/N).

¹⁰ Corresponding to approx. EUR 14 120, see https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro_fr, exchange rate on 16 September 2021. The Danish authorities explained that the increased tax deduction does not apply to ships carrying out scheduled passenger service between ports of the Member States.

¹¹ Commission communication C(2004) 43 — Community guidelines on State aid to maritime transport, OJ C 13, 17.1.2004, p. 3.

Danish Parliament on 26 April 2018. Such amendment entered into force on 1 July 2018. The measure therefore applies to vessels registered in an EU/EEA Member State, provided they carry out transport of passengers and goods¹².

- (8) The Danish authorities also explain that the existing scheme currently applies to both Danish tax resident and foreign tax resident seafarers. In particular, the Danish authorities clarify that provided the income of an eligible seafarer is taxable in Denmark, the existing scheme also applies to all seafarers working on board vessels providing scheduled passenger services between ports of the Community, irrespective of their citizenship.
- (9) The Danish authorities submit that the measure may be applied by seafarers working on board eligible dredgers. In this respect, the Danish authorities submit that the measure applies when the eligible dredgers carry out maritime transport activities for more than 50 % of their operational time.

2.2. The objectives of the measure

- (10) The Danish authorities submit that the European maritime sector faces intense global competition and extreme cost pressure. The objective of the measure is therefore to support maritime employment and improve the competitiveness of the European maritime sector.
- (11) In particular, the Danish authorities indicate that the objective of the measure is to improve the competitiveness of Danish and EU/EEA vessels and flags, and therefore the European maritime cluster on the whole, in order to retain activities and support the development of employment of European seafarers as well as know-how within the EU/EEA.
- (12) The Danish authorities underline that the demand for seafarers has increased significantly over the past years. This resulted in increased competition on the recruitment of seafarers between ship-owners. This competitive situation makes it crucial for ship-owners to be able to offer attractive economic conditions in order to attract and employ the seafarers required for efficiently continuing their activities.
- (13) The Danish authorities maintain that the measure contributes to the fulfilment of the basic objectives of the Maritime Guidelines, particularly in terms of preserving and improving maritime know-how, supporting employment and enhancing maritime expertise in the EEA.

2.3. Aid impact and volume

- (14) The Danish authorities indicate that, in 2020, the existing scheme was applied by approximately 400 seafarers working on board vessels registered in Denmark or in another EU/EEA Member State.

¹² The Danish authorities clarify that the measure does not apply to seafarers working on board vessels carrying out activities that qualify as “limited maritime transport” pursuant to Articles 2(1)(3) and (2)(2) of the Act on the Taxation of Seafarers. The term “limited maritime transport” covers in particular any activity primarily carried out at lakes, internal waters, including inland waterways and fjords; any stationary activity; any activity carried out by a vessel with no powered craft; any activity not exceeding a distance of 50 nautical miles and; any activity that makes it possible for the seafarer to spend the night at one’s own place on a regular basis.

- (15) The Danish Ministry of Taxation therefore estimates that the annual aid provided by the measure is of approximately DKK 5 000 000 (approx. EUR 0.672 million).

2.4. Legal basis

- (16) The Danish authorities indicate that the legal basis of the notified measure is Section 3 of the Act on the Taxation of Seafarers (*Lov om beskatning af søfolk (sømandsbeskatningsloven), jf. lovbekendtgørelse nr. 131 af 7. februar 2020, som ændret ved lov nr. 1583 af 27 december 2019 (Udvidelse af sømandsfradrag til søfolk på forsknings- og havundersøgelsesskibe)*). The Act on the Taxation of Seafarers is supplemented by the Executive Order on the Taxation of Seafarers. In particular, sections 1-3, 6 and 24 of such Executive Order contain rules on the administration and control of the measure.
- (17) In addition, the Danish authorities submitted a Proposal to the Act amending the Seafarers' Taxation Act, which will introduce amendments to the legal basis (see also section 2.7, recital (30)).

2.5. Duration

- (18) The Danish authorities explain that predictability is key for the ability to maintain and attract tonnage to the Danish and European shipping registers. Moreover, the Danish authorities underline that a high degree of predictability is required to meet the common objectives of the Maritime Guidelines, such as maintaining and improving maritime know-how and protecting and promoting employment for European seafarers.
- (19) For these reasons, the Danish authorities request that the measure is prolonged for a period of 10 years, as such a period would enhance legal certainty for shipping companies, individual seafarers and investors.
- (20) The prolongation would therefore last from 1 January 2022 until 31 December 2031.

2.6. The beneficiaries of the measure

- (21) As explained in recital (6), the measure allows seafarers to deduct an amount (of either DKK 56 900 or DKK 105 000) from their annual taxable income before the calculation of the income tax. Therefore, seafarers who apply the measure may reduce their individual tax payment compared to other individuals applying the general Danish tax rules. In this respect, the Danish authorities submit that seafarers may therefore be regarded as the direct beneficiaries of the measure.
- (22) The Danish authorities also explain that the measure provides for a fixed tax deduction, which is calculated when the wages are set. The Danish authorities add that since the tax payment is reduced for the seafarers it would therefore be possible for employers to pay a lower gross wage to the employees. In particular, the Danish authorities explain that employers have no obligation under Danish law to adjust the net salary of seafarers corresponding to a tax deduction (or a tax increase). However, employers may take into account specific tax deductions when setting the employees' wages. In the case at issue, sector-specific deductions of a permanent and fixed (i.e. not dependent on individual expenses) character will generally indirectly benefit employers in the sector as no legal

obstacles will prevent those employers from taking the employees' tax deductions into account and, as a result, reduce their wages. This conclusion is also supported by the fact that the Danish shipping organisations regularly show an active interest in keeping the measure in force and support its prolongations.

- (23) As a result, the Danish authorities conclude that the fact that the labour market model in Denmark makes it possible for employers to take the sector-specific tax deduction into account when the net wages of the seafarers are set and reduce their wage costs (thereby also reducing a burden normally included in their budget), should be sufficient to conclude that the measure is likely to indirectly benefit the relevant employers.
- (24) In other words, without the measure shipping companies may have to raise their gross wage payments to guarantee seafarers a net wage corresponding to the net wage that seafarers receive when applying the measure.

2.7. Amendments to the existing scheme

- (25) During the pre-notification contacts, the Commission services noted that the scope of the existing scheme appeared to be wider in relation to the definition of "Community seafarers" as set out in the Maritime Guidelines.
- (26) In particular, the Danish authorities indicated that the existing scheme applies to vessels carrying out scheduled passenger services between EU ports. At the same time, the Danish authorities submitted that as long as the income of an eligible seafarer is taxable in Denmark, the existing scheme applies to all seafarers working on board vessels providing scheduled passenger services between ports of the Community, irrespective of their citizenship.
- (27) In that respect, the Commission services noted that pursuant to the third paragraph, first indent, of Section 3.2 of the Maritime Guidelines, Community seafarers are defined as "*Community/EEA citizens, in the case of seafarers working on board vessels (including ro-ro ferries [...]) providing scheduled passenger services between ports of the Community*". However, the existing scheme applies to all seafarers liable to pay taxes in Denmark, not exclusively to Community/EEA citizens.
- (28) In light of the above, the Danish authorities agreed to amend the legal basis of the measure, which is Section 3 of the Act on the Taxation of Seafarers, to limit the scope of the measure to "Community/EEA citizens" in case of seafarers working on board vessels carrying out scheduled passenger services between ports of the Community.
- (29) In addition, the Danish authorities plan to change the reference to ports of the Community in the Danish law to instead refer to ports of EEA Member States, which would also require an amendment of Section 3 of the Act on the Taxation of Seafarers.
- (30) The required legislative amendments of the existing scheme are expected to be contained in a Draft Bill. The Draft Bill, which was submitted by the Danish authorities as part of the notification of the measure, was sent for public consultation on 27 August 2021.

- (31) The Danish authorities expect to introduce the Draft Bill amending the existing scheme to the Parliament in November 2021. The Draft Bill would be adopted in December 2021. The amendments to the existing scheme are expected to enter into force on 1 January 2022.

3. ASSESSMENT OF THE AID

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

- (32) According to Article 107(1) TFEU “*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market*”.
- (33) It follows that, in order for a measure to be qualified as State aid within the meaning of Article 107(1) TFEU, the following four cumulative conditions have to be met:
- It has to be imputable to the Member State and granted out of State resources.
 - It has to confer an economic advantage on undertakings.
 - The advantage has to be selective.
 - The measure has to distort or threaten to distort competition and affect trade between Member States.
- (34) The Commission has come to the view that the measure constitutes State aid within the meaning of Article 107(1) TFEU. In particular, the measure entails foregone revenues for the Danish government and is thus financed through State resources. The measure is also imputable to Denmark, as it is implemented through national legislation. In addition, the seafarers’ tax deductions may reduce the costs that ship-owners would normally bear and therefore constitute a selective advantage for those undertakings. In fact, the measure concerns the reduction of a tax contribution, which would be normally paid in full either by the seafarers or by the seafarers’ employers. Thanks to the measure, those employers may lower their wage costs as a result of the tax deductions applied by the seafarers (see recital (22) of this Decision). Therefore, the measure grants an indirect advantage to the shipping companies hiring these seafarers as they benefit from lower labour costs and they are partly relieved from a charge that they would normally have to pay to the State. Those advantages are selective since they are not available to companies not benefiting from the measure (e.g. in other sectors of the economy), which are however in a comparable situation. Finally, in view of other possible means of transport and the global scale of maritime transport, the measure is liable to distort competition and affect trade within the liberalised European shipping market. Nothing in the notification of the measure alters that assessment.
- (35) It follows that the measure involves State aid in the sense of Article 107(1) TFEU. The Danish authorities do not contest that conclusion.

3.2. Legality of the measure

- (36) The Danish authorities indicated that the Draft Bill amending the existing scheme will be presented to the Danish Parliament in November 2021. The Danish authorities estimate that the amendments will most likely be approved in December 2021 and enter into force on 1 January 2022.
- (37) The Commission takes note that the Danish authorities will not enforce the measure before the Commission notifies a positive decision authorising it.

3.3. Compatibility of the aid

- (38) Since the measure constitutes State aid within the meaning of Article 107(1) TFEU, the Commission considers that its compatibility with the internal market should be examined in the light of the provision provided for in paragraph 3(c) of that Article.
- (39) Pursuant to Article 107(3)(c) TFEU aid to facilitate the development of certain economic activities or of certain economic areas may be considered compatible with the common market, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (40) Since the measure concerns the maritime sector, reference should be made to the Maritime Guidelines, on the basis of which the measure has been notified. The measure will therefore be examined in the light of the Maritime Guidelines and more specifically its point 3.2 on ‘wage costs’, which provides for the possibility of reducing taxes and other costs borne by EU ship-owners and seafarers sailing on ships registered in a Member State.

3.3.1. The aid must facilitate the development of an economic activity

- (41) As stated in recital (39) of this Decision, an aid measure notified on the basis of Article 107(3)(c) TFEU must aim, in order to be considered compatible with the internal market, at facilitating the development of an economic activity.
- (42) The objective of the measure, as described in section 2.2 above, is to ensure the conditions to support the development of the European maritime sector by maintaining the competitiveness of the European maritime industry and supporting the employment of European seafarers and the preservation of seafarers’ know-how.
- (43) As indicated in Section 3.1 of the Maritime Guidelines, many third countries offer a favourable tax environment, including by offering flags of convenience and more convenient tax regimes. Without the measure, some ship-owners may risk re-flagging their vessels or even relocating their activities to those third countries. As submitted by the Danish authorities, the measure therefore makes it possible to strengthen the European flag, reduce the risk of flagging out to the flag of non-EU countries and keep seafarers’ know-how within the European maritime industry.
- (44) The Commission notes that the objectives of the measure as described in section 2.2 above are in line with the objectives set out in the Maritime Guidelines. The measure aims at guaranteeing economic conditions in order to maintain the competitiveness of the European shipping sector, attract investments and achieve

economic growth, increase the EEA's maritime fleet and create skilled maritime employment in the EEA.

- (45) The measure hence aims at facilitating the development of the economic activity of the European maritime sector and is therefore in line with the Maritime Guidelines.

3.3.2. *The aid may not unduly affect trading conditions to an extent contrary to the common interest*

3.3.2.1. Positive effects of the measure

3.3.2.1.1. *Benefits for the sustained economic activity*

- (46) As stated in the recitals (42) and (43), the measure supports the economic development of the EU maritime sector by promoting the competitiveness of the European fleet on the world maritime transport markets, in particular vis à vis non-EU, third country flags.
- (47) The measure is also expected to have positive macro-economic returns on the corresponding maritime cluster, as it will contribute to the development of activities that are strictly related to maritime transport (see recitals (10), (11) and (13) of this Decision)¹³.

3.3.2.1.2. *Other positive effects*

- (48) The measure makes it possible to maintain EU employment, preserve maritime know-how and related maritime industries and, by supporting the preservation of the EU/EEA flag, maintaining a high level of safety in the sector (see recital (11)).

3.3.2.2. Limitation of the negative effects of the measure

3.3.2.2.1. *Necessity, appropriateness and proportionality of the aid*

- (49) The measure is necessary because the market alone fails to deliver an effective result. In this regard, the Maritime Guidelines point out, in section 3.1, that “*there are no effective international rules at present to curb tax competition and few administrative, legal or technical barriers to moving a ship's registration from a Member State's register. In this context, the creation of conditions allowing fairer competition with flags of convenience seems the best way forward*”.
- (50) In this respect, State aid is an appropriate instrument to lower the labour costs of eligible undertakings and thus enable them to cope effectively with this international competition. This is why the Commission adopted the Maritime Guidelines in 2004, which recall in section 1 that “*the Commission estimates that State aid to the European shipping industry is still justified and that the approach of the 1997 Guidelines was correct. This Communication is therefore based on the same basic approach.*”

¹³ See also recital (4) of Commission decision of 17 May 2018 in SA.46852 (2016/N) and recital (11) of Commission decision of 13 November 2002 in case NN 116/1998.

- (51) In particular, the measure minimises distortions of competition and trade given that it complies with the requirements set out in the Maritime Guidelines for the following reasons.

Scope of the measure

- (52) According to section 3.2 of the Maritime Guidelines, the following actions on labour costs are allowed for EU maritime transport:
- reduction of social security contributions for EU seafarers sailing on vessels registered in a Member State;
 - income tax reduction for EU seafarers sailing on ships registered in a Member State.
- (53) As indicated in section 2.1 above, the measure concerns a reduction of the income tax normally due by seafarers employed on board eligible vessels.
- (54) The measure is therefore in line with the Maritime Guidelines and the Commission’s decision-making practice¹⁴ in this respect.

Eligibility of seafarers and vessels

- (55) According to section 3.2 of the Maritime Guidelines, only ‘Community seafarers’ employed on board vessels registered in a Member State may benefit from the scheme. EU seafarers are defined as follows:
- Union citizens, in the case of seafarers working on board vessels (including ro-ro ferries) providing scheduled passenger services between EU ports;
 - all seafarers liable to taxation and/or social security contributions in a Member State, in all other cases.
- (56) Subject to the Danish authorities’ amendment of the relevant legal basis as described in recital (28) of this Decision, the measure will only apply to ‘Community seafarers’ as defined in section 3.2 of the Maritime Guidelines. In particular, the Danish authorities committed to limit the scope of the measure, in case of seafarers working on board vessels carrying out scheduled passenger services between ports of the Community, only to Community citizens. The measure therefore complies with the Maritime Guidelines in this respect.
- (57) In addition, only genuine maritime transport activities are eligible for aid under the Maritime Guidelines. Maritime transport activities are defined as defined in Regulation (EEC) No 4055/86¹⁵ and in Regulation (EEC) No 3577/92¹⁶, as “the

¹⁴ See, *inter alia*, Commission decision of 22 June 2021 in SA.62571 (2021/N) - Prolongation of the reduction of the wage tax payable on seafarers' wages, OJ C 285, 16.07.2021, p. 1; Commission decision of 11 June 2021 in SA.59537 (2021/N) - Régime d'aides sous forme d'exonération de cotisations sociales aux employeurs de marins embarqués sur des navires à passagers exploités sur des lignes internationales, OJ C 275, 9.07.2021, p. 1.

¹⁵ Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries (OJ L 378, 31.12.1986, p. 1).

transport of goods and persons by sea between ports of Member States or a Member State and a third country, as well as between a port of a Member State and an off-shore installation/structure of another Member State or a third country”.

- (58) As explained in recital (7) of this Decision, the measure applies to vessels registered in an EU/EEA Member State, provided they carry out transport or passengers and goods. The measure therefore complies with the Maritime Guidelines also in this respect.
- (59) Furthermore, the Maritime Guidelines set out that for the maritime part of towage and dredging (maritime transport of materials), Community seafarers are eligible to benefit from the seafarer scheme, but only if they are “*working on board seagoing, self-propelled tugs and dredgers, registered in a Member State carrying out maritime transport at sea for at least 50% of their operational time*”.
- (60) The Danish authorities have confirmed that the measure applies to eligible dredgers that carry out maritime transport activities for more than 50 % of their operational time (see recital (9)).
- (61) The measure therefore complies with the Maritime Guidelines and the Commission’s decision-making practice¹⁷ in this respect.

Registration in a Member State

- (62) Section 3.2 of the Maritime Guidelines provides that reductions in wage costs are allowed for Union maritime transport provided that they apply to EU seafarers employed on board vessels registered in a Member State.
- (63) The Danish authorities confirmed that only seafarers employed on board ships registered in a Member State are eligible to benefit from the measure (see recital (7) of this Decision).
- (64) The measure therefore complies with the Maritime Guidelines and the Commission’s decision-making practice¹⁸ in this respect.

Ceiling/cumulation and duration of the aid

- (65) In accordance with Section 11 of the Maritime Guidelines, the total amount of aid to shipping companies, irrespective of the form of aid, must not be higher than the total exemption from taxes and social contributions for maritime activities and seafarers.

¹⁶ Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries (OJ L 378, 31.12.1986, p. 1).

¹⁷ See, *inter alia*, Commission decision of 22 June 2021 in SA.62571 (2021/N) - Prolongation of the reduction of the wage tax payable on seafarers' wages, OJ C 285, 16.07.2021, p. 1; Commission decision of 16 December 2019 in SA.53469 (2019/N) – Estonia, State aid in favour of maritime transport, OJ C 144, 30.04.2020, p.1; Commission decision of 11 June 2021 in SA.59537 (2021/N) - Régime d'aides sous forme d'exonération de cotisations sociales aux employeurs de marins embarqués sur des navires à passagers exploités sur des lignes internationales, OJ C 275, 9.07.2021, p. 1.

¹⁸ Ibidem, see footnote [17].

- (66) The Danish authorities explained the functioning of the measure, as described in section 2.6 above. Since the taxes deducted by the eligible seafarers represent only a reduction in the labour costs to be normally paid, these benefits cannot exceed a total exemption from taxes and social contributions for maritime activities and seafarers.
- (67) Therefore, the Commission concludes that the requirements for cumulation of aid and aid ceiling set out by the Maritime Guidelines are met.

Duration

- (68) According to the case-law, aid schemes cannot be approved as compatible under Article 107(3) TFEU for an unlimited duration¹⁹.
- (69) As explained in recital (19), the Danish authorities indicated that the notified measure would be in force for a period of 10 years (see recitals (8) and (9) of this Decision).
- (70) Moreover, the Commission notes that this duration is in line with previously authorised State aid schemes in the maritime sector. Therefore, the measure complies with the Commission's practice in this respect²⁰.

Conclusion

- (71) As a conclusion, the Commission considers that the measure minimises distortions of competition and trade given that the aid does not exceed the amount of eligible exemption from taxes and social security contributions (recital (66)). As a result, the amount of aid is limited to the minimum necessary to carry out the aided activity.

3.3.2.2.2. Remaining distortions of trading conditions that cannot be avoided

- (72) At the same time, the Commission notes that the measure may distort competition between European shipping companies by reducing the costs of eligible undertakings, while competing undertakings not benefiting from similar measures must bear those costs themselves.
- (73) However, the measure is limited to the minimum necessary in accordance with the Maritime Guidelines (see recitals (66) and (71) of this Decision). Moreover, the Danish authorities have committed to limit the scope of the measure, in case of seafarers working on board vessels carrying out scheduled passenger services between ports of the Community, to Community seafarers as described in Section 3.2 of the Maritime Guidelines. The distortion of competition will therefore be limited.

¹⁹ Judgment in case C-67/09 P *Nuova Agricast* EU:C:2010:607, paragraph 80.

²⁰ See, *inter alia*, Commission decision of 16 December 2019 in SA.52069 (2019/N) Prolongation of the Danish seafarer regime for dredgers, OJ C 52, 14.02.2020, p.1; Commission decision of 16 December 2019 in SA.51809 (2019/N) Prolongation of the Cyprus Tonnage Tax and Seafarer Scheme, C 187, 5.06.2020, p. 1.

3.3.2.2.3. Balancing the positive effects of the aid against the negative effect on the internal market

- (74) As explained in the above recitals, the distortive effects of the measure on competition and trade will be limited.
- (75) The limited negative effects on competition and trade must be weighed against the significant positive effects of the measure described in paragraph 3.3.2.1. In particular, the measure supports the development of the European maritime sector, the flagging to EU/EEA flags, promotes the employment of European seafarers, stimulates maritime know-how and ensures safety in the European maritime industry.
- (76) In the light of the foregoing, the Commission considers that the positive impact of the measure on the development of the economic activity in question outweighs the potential negative effects on competition and trade. The measure therefore does not distort competition to an extent contrary to the common interest.

4. CONCLUSION

- (77) Based on the foregoing, the Commission considers that the measure constitutes State aid compatible with the internal market.

5. DECISION

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

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

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Executive Vice-President

