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**Subject: State Aid SA.100440 (2021/N) – Malta
COVID-19: Financial Aid Grant Scheme for Fishers**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 22 October 2021, Malta notified aid in the form of limited amounts of aid (Financial Aid Grant Scheme for Fishers, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹
- (2) By email of 27 October 2021, Malta amended the notified electronic notification.
- (3) Malta exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

¹ 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).

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Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (4) Malta considers that the COVID-19 pandemic affects the real economy. The measure forms part of an overall package of measures. It aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.
- (5) Malta confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (6) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of Sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (7) The measure provides aid in the form of direct grants.

2.2. Legal basis

- (8) The legal basis for the measure is
 - (a) the Agricultural and Fishing Industries (Financial Assistance) Act (CAP 146 of the Laws of Malta); and
 - (b) Administrative Decision on COVID-19 financial aid grant scheme for fishers - Guidelines for aid under Section 3.1 of the Temporary Framework for State aid measures to support the economy in the current covid-19 outbreak (the “Administrative Decision”).
- (9) According to the Administrative Decision, no aid shall be granted or paid before the notification of the Commission’s decision approving the measure.

2.3. Administration of the measure

- (10) The Department for Fisheries and Aquaculture (“DFA”) within the Ministry of Agriculture, Fisheries, Food and Animal Rights (“MAFA”) is responsible for administering the measure.

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

2.4. Budget and duration of the measure

- (11) The estimated budget of the measure is EUR 800.000.
- (12) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure and no later than 31 December 2021.

2.5. Beneficiaries

- (13) The final beneficiaries of the measure are SMEs³ active in the fishery sector.
- (14) Aid may not be granted under the measure to medium⁴ enterprises that were already in difficulty within the meaning of the Fisheries Block Exemption Regulation ("FIBER")⁵ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the FIBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid⁶ or restructuring aid.⁷
- (15) The estimated number of beneficiaries lies between 501 to 1 000.
- (16) The Maltese Authorities confirm that credit and financial institutions are excluded from the scope of the scheme and cannot benefit from it.

2.6. Sectoral and regional scope of the measure

- (17) The measure is open to all undertakings active in fishery sector. It applies to the whole territory of Malta.

2.7. Basic elements of the measure

- (18) The Maltese authorities confirm that aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid

³ As defined in Annex I to Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 369, 24.12.2014, p. 37–63.

⁴ As defined in Annex I to Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 369, 24.12.2014, p. 37–63.

⁵ Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.

⁶ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

⁷ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

referred to in Article 1, points (1)(a) to (k) of Commission Regulation (EU) No 717/2014⁸.

- (19) The amount of aid is based on an Impact Assessment⁹ (the “impact assessment”) conducted by the Maltese authorities, in which the Maltese authorities estimated the loss of the value in the fishery sector due to the COVID-19 pandemic.
- (20) The impact assessment includes market data of amounts (kg) and prices of 15 most caught fish species in for 2017 to 2020. The market data was used to estimate the annual price elasticity of supply and demand, and supply and demand equations for 2017 to 2019.
- (21) Average supply and demand equation (2017 to 2019) was used to calculate the estimated equilibrium price (EUR 4.92 per kg) and quantity (1.854.073 kg) for 2020, which gives market value of the sector without the impact of the COVID-19 pandemic (EUR 9.122.041).
- (22) The Impact Assessment shows that in 2020 total quantity of the top 15 most caught fish species decreased due to the reduction of tourism. The COVID-19 pandemic did not hit the supply but rather the demand. As a result, only the demand equation was shifted in the Impact Assessment. This gives an estimated equilibrium quantity (1.648.175 kg) and price (EUR 4.60 per kg) in 2020 taking account the impact of the COVID-19 pandemic, which gives the market value of the sector with the impact of the COVID-19 pandemic (EUR 7.589.213).
- (23) The loss of the value in the fishery sector due to the COVID-19 pandemic (EUR 1.532.828) is the difference between the market value of the sector without the impact of the COVID-19 pandemic (EUR 9.122.041) and the market value of the sector with the impact of the COVID-19 pandemic (EUR 7.589.213).
- (24) The Impact Assessment allocates the loss of the value in the fishery sector due to the COVID-19 pandemic (EUR 1.532.828) to the actual caught in 2020, which gives EUR 0.98 per kg.
- (25) The amount of aid per eligible vessels is calculated by multiplying the amount of fish caught in kg terms in 2020 by the EUR 0.98 loss in terms of EUR per kilogram and deducted by any financial aid received in 2020 in relation to schemes or measures implemented in line with the Temporary Framework by the DFA.
- (26) The minimum amount of aid is EUR 700 for a full-time registered vessel and EUR 350 for a part-time registered vessel. These minimum amounts of aid also apply in the cases where no catch was recorded for 2020.
- (27) The maximum amount of aid is EUR 5.000 per registered vessel.

⁸ Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

⁹ Impact Assessment of the adverse effects of COVID-19 on fishers in Malta Study for the Department of Fisheries and Aquaculture.

- (28) The Maltese Authorities confirm that the overall maximum aid per undertaking, set at EUR 270.000 in line with point 23(a) of the Temporary Framework, will be respected.
- (29) The Maltese Authorities confirm that, where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, it will be ensured, by appropriate means such as separation of accounts, that for each of these activities the relevant ceiling is respected and that the overall maximum amount of EUR 1.8 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23(a) of the Temporary Framework, the overall maximum amount of EUR 270 000 is not exceeded per undertaking.

2.8. Cumulation

- (30) The Maltese authorities confirm that aid granted under the measure may be cumulated with aid under the de minimis Regulation (EU) No 717/2014 or the Fisheries Block Exemption Regulation¹⁰ provided the provisions and cumulation rules of those Regulations are respected.
- (31) The Maltese authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (32) The Maltese authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (33) The Maltese authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under Section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 23(a) of that framework, will be respected.
- (34) The Maltese authorities confirm that aid granted under the measure shall not be cumulated with other aid for the same eligible costs.

2.9. Monitoring and reporting

- (35) The Maltese authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 10 000 on the comprehensive national State aid website (<https://eufunds.gov.mt/en/SAMB/Pages/SAMBHome.aspx>) or Commission's IT tool within 12 months from the moment of granting¹¹).

¹⁰ Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

¹¹ Referring to information required in Annex III to Commission Regulation (EU) No 1388/2014.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (36) By notifying the measure before putting it into effect, the Maltese authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (37) 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.
- (38) The measure is imputable to the State, since it is administered by the Department for Fisheries and Aquaculture within the Ministry of Agriculture, Fisheries, Food and Animal Rights(recital (10)) and it is based on the national legal basis (recital (8)). It is financed through State resources, since it is financed by public funds (recital (11)).
- (39) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.
- (40) The advantage granted by the measure is selective, since it is awarded only to undertakings active in the fishery sector (recitals (13) and (17)).
- (41) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (42) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Maltese authorities do not contest that conclusion.

3.3. Compatibility

- (43) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (44) 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*”.
- (45) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in Section 2) 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”.

- (46) The measure aims at supporting the eligible vessel owners. It enables them to remain operating and thus eliciting a significant economic impact on the Maltese fisheries sector at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (47) The measure is one of a series of measures conceived at the national level by the Maltese authorities to remedy a serious disturbance in their economy. The importance of the measure is to preserve employment and economic continuity in the fishery sector. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Limited amounts of aid”) described in Section 3.1 of the Temporary Framework.
- (48) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- The aid takes the form of direct grants (recital (7)).

The maximum amount of aid that can be granted under this measure is EUR 5 000 per vessel. The overall nominal value of direct grants per undertaking under schemes according to Section 3.1 of the Temporary Framework will not exceed EUR 270.000 in line with point 23(a) of the Temporary Framework (recitals (22) and (28)); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 23(a) of the Temporary Framework.

- 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 may not be granted under the measure to medium¹² enterprises that were already in difficulty on 31 December 2019 (recital (14)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid¹³ or restructuring aid¹⁴

¹² As defined in Article 2 of Annex I to Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 369, 24.12.2014, p. 37–63.

¹³ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

¹⁴ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

(recital (14)). The measure therefore complies with point 22(c)*bis* of the Temporary Framework.

- Aid will be granted under the measure no later than 31 December 2021 (recital (12)). The measure therefore complies with point 22(d) of the Temporary Framework.
- Aid granted under this measure is not fixed on the basis of the price or quantity of products put on the market but the loss of the value in the fishery sector due to the COVID-19 pandemic (recitals (19) to (24)). It does not concern any of the categories of aid referred to in Article 1, points (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (18)). The measure therefore complies with point 23(c) of the Temporary Framework.
- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Malta will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 1.8 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 270.000 is not exceeded per undertaking (recital (29)). The measure therefore complies with point 23*bis* of the Temporary Framework.

(49) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

4. CONCLUSION

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

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

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President