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**Subject: State Aid SA.102126 (2022/N) – Croatia
COVID-19: Re-introduction and amendment of the scheme SA.56998 as
already amended**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 28 February 2022, Croatia notified a measure (the “*notified measure*”) reintroducing and amending the aid scheme SA.56998 (2020/N) “*State aid in fisheries and aquaculture supporting the economy under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak*” (the “*initial aid scheme*”), which the Commission approved (“*the initial decision*”) by Decision C(2020) 2580 final of 17.4.2020 under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak¹ (the “*Temporary Framework*”), which the Commission approved.

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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

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- (2) On 8 March 2022, the Croatian authorities amended the notified measure.
- (3) The aid scheme was amended in case SA.62383 (2021/N), approved by Commission decision C(2021)2118 final of 25.3.2021 (“*the amending decision*”). The initial aid scheme as amended expired on 31 December 2021².
- (4) Croatia 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 1/1958,³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED MEASURE

- (5) The objective of the initial aid scheme was to preserve the continuity of economic activity during and after the COVID-19 pandemic. It was designed to ensure that undertakings continue to have access to the necessary liquidity to overcome the current economic difficulties.
- (6) The notified measure re-introduces and amends the initial aid scheme, as amended. The aid will be granted under the notified measure from the notification of the Commission’s approval until no later than 30 June 2022.
- (7) Maximum aid amounts per beneficiary (Recital (5)(c) of the amending decision) will be increased to EUR 345 000. All figures are gross, that is, before any deduction of tax or other charges.
- (8) The estimated budget of the scheme will be increased to HRK 105 000 000 (approximately EUR 13 879 000⁴) by HRK 75 000 000 (approximately EUR 9 914 000).
- (9) In addition, Croatia wishes to amend the initial aid scheme as amended, as follows:
 - (a) Croatia aims to reintroduce the definition of the eligible beneficiaries as set out in recital (17) of the initial decision and to cancel the amendment set out in recital (6) of the amending decision, which narrowed the scope of eligible beneficiaries to fishermen active in the segment of small-scale coastal fisheries. Thus, the eligible beneficiaries will again be undertakings of all sizes of the fishery and aquaculture sector.
 - (b) The initial decision required that the beneficiary had to prove that it had a decrease of income in the period 1 January 2020 to 1 May 2020 as compared to the same period in 2018 and/or 2019 (recital (19) of the initial decision). According to the notified measure, beneficiaries have to have recorded a decrease of income in 2021 in comparison to 2018 or 2019.

² Recital (5) a of the amending decision.

³ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁴ Euro exchange rates 28 February 2022 (OJ C 100, 1.3.2022, p. 37). Croatian kuna 7,565.

- (c) Croatia aims to implement a new method to calculate the aid per beneficiary and to replace the calculation method of the aid that is described in recital (28) of the initial decision. The aid will be calculated as described in the following Section.

2.1. New Aid Calculation Method

- (10) The new method to calculate the aid per beneficiary (recital (9)(c) of this decision) consist of three options depending on the type of the fishing segment.

2.1.1. Marine commercial fishing - Small-scale coastal fisheries segment

- (11) The aid amount is HRK 8 000 (approximately EUR 1 058) per employee. This calculation is applied only if the beneficiary operates exclusively in the marine commercial fishing sector and exclusively in the small-scale coastal fisheries.
- (12) Small-scale coastal fisheries means fishing performed by fishing vessels of an overall length of less than 12 metres and not using towed fishing gear as listed in Article 2 paragraph 1 of Council Regulation (EC) No 1967/2006⁵.
- (13) Only those employees, who were employed when an application for the aid was submitted, are taken into account in the calculation of the aid.

2.1.2. Marine commercial fishing - DTS⁶ and PS⁷ segments

- (14) The aid amount depends on the fleet segment of the beneficiary. A fleet segment is the combination of a particular fishing technique category and a vessel length category.
- (15) The aid amount is calculated as follows: aid amount (HRK) = the basic aid amount (HRK) (recital (16) of this decision) x the aid intensity factor (recital (19) of this decision).
- (16) The basic aid amount depends on the fishing technique, number of fishing days (recital (17) of this decision) and a cost coefficient that varies based on the vessel length (recital (18) of this decision) as follows:
- (a) Basic aid amount (HRK) (DTC segment) = a cost coefficient x number of fishing days x HRK 120 (approximately EUR 15,90); and
 - (b) Basic aid amount (HRK) (PS segment) = a cost coefficient x number of fishing days x HRK 80 (approximately EUR 10,60).
- (17) The number of the fishing days means the number of fishing days in 2021 realised in the segment for which the aid is calculated.

⁵ Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94. OJ L 409, (30.12.2006, p. 11). Special edition in Croatian: Chapter 04 Volume 003 P. 68-91.

⁶ Demersal trawlers and/or demersal seiners (a fishing technique category).

⁷ Purse seiners (a fishing technique category).

- (18) A cost coefficient depends on the vessel length and fishing technique as shown in table 1.

Table 1: The Cost coefficient based on the vessel length and the fishing technique

Vessel length	Demersal trawlers and/or demersal seiners (DTS) vessels Cost coefficient
= > 6 < 12 m	1,9
= >12 < 18 m	4,2
= > 18 < 24 m	13,1
= > 24 < 40 m	24,9
Vessels size	Purse seiners (PS) vessels Cost coefficient
= > 6 < 12 m	1,0
= > 12 < 18 m	6,1
= > 18 < 24 m	15,4
= > 24 < 40 m	19,0

- (19) The aid intensity factor for DTS and PS vessels is based in the size of the vessel as shown in table 2.

Table 2: The aid intensity factor based on the vessel length

Size - DTS and PS vessels	Aid intensity factor
= > 18 < 24 m	80 % of the basic support calculated in point (a)
= > 24 m	60 % of the basic support calculated in point (a)

- (20) However, if the length of the eligible vessels is 6 m or more but less than 12 m, the beneficiary can choose whether its aid amount is based either on the calculation method for other commercial fishing segments (Section 2.1.3 of this decision) or on the basic aid amount (recital (16) of this decision).

2.1.3. Marine commercial fishing (capture fisheries) - Other commercial fishing segments

- (21) The aid is HKR 5 000 per employee (approximately EUR 661) for undertakings that do not fall in the scope of Section 2.1.1 (small scale coastal fisheries) or Section 2.1.2 of this decision (PS and DTS segments).
- (22) Only the employees that were employed when an application for support was submitted are taken into account in the aid calculation. However, if the beneficiary has also other activities than commercial fishing within or outside the fisheries and aquaculture sector, then only those employees that are full time employed for activities related to the beneficiary's commercial fishing activity are taken into account for the aid calculation.

2.1.4. Aquaculture - Shellfish farming segment

- (23) The aid is HRK 8 000 per employee (approximately EUR 1 058). This aid amount is applied only if the beneficiary is active exclusively within the aquaculture field and exclusively dealing with farming shellfish.
- (24) Only the employees that were employed when the application for support was submitted are taken into account in the aid calculation.

2.1.5. Aquaculture - Other aquaculture segments

- (25) The beneficiaries active in the marine aquaculture and freshwater aquaculture sectors, which do not fall in the scope of Section 2.1.4 of this decision (shellfish farming) receive HKR 5 000 per employee (approximately EUR 661).
- (26) Only the employees that were employed when the application for support was submitted are taken into account in the aid calculation. However, if a beneficiary has also other activities than aquaculture within or outside the fisheries and aquaculture sector, then only the employees that are full-time employed for activities related to the beneficiary's aquaculture activities are taken into account in the aid calculation.

2.1.6. Processing of fisheries and aquaculture products

- (27) The aid is HKR 5 000 (approximately EUR 661) per employee for beneficiaries active in the processing of fishery or aquaculture products sector.
- (28) Only those employees, which were employed when an application for the aid was submitted, are taken into account in the calculation of the aid. However, if a beneficiary has also other activities than processing of fisheries and aquaculture products within or outside the fisheries and aquaculture sector, then only those employees that are full time employed for activities related to the beneficiary's processing of fisheries and aquaculture products activities are taken into account in the aid calculation.

2.2. Other

- (29) The Croatian authorities confirm that no further amendments are proposed to the initial aid schemes, as amended, as part of the notified measure and that all other conditions of those schemes are unaltered.

- (30) The legal basis for the notified measure are:
- (a) the Marine Fisheries Act (OG No 62/17, 14/19);
 - (b) the Aquaculture Law (OG No 130/17, 111/18); and
 - (c) the draft Ordinance on Conditions, Criteria and Manner of Granting State Aid in Fisheries Supporting Economy – Covid-19 (submitted to the Commission 28 February 2022).
- (31) Aid may be granted under the notified measure as from the notification of the Commission’s approval until no later than 30 June 2022 (recital (6) of this decision).
- (32) The Croatian authorities confirmed that:
- (a) aid does not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k) of Commission Regulation (EU) No 717/2014⁸;
 - (b) 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 345 000 is not exceeded per undertaking.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (34) 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.
- (35) The initial aid scheme constituted State aid⁹ within the meaning of Article 107(1) TFEU for the reasons set out in the initial decisions¹⁰. The amendments referred to in recital (3) did not affect that conclusion¹¹. The notified measure, and in

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 Recital (37) of the initial decision.

¹⁰ Recitals (33) to (36) of the initial decision.

¹¹ Recital (13) of the amending decision.

particular the amendments in recitals (7) to (9) of this decision, do not affect that conclusion. The Commission therefore refers to the assessment of the initial decision and concludes that the notified measure constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (36) The initial aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of sections 2, and 3.1 of the Temporary Framework for the reasons set out in the initial decision (recitals (38) to (53) of the initial decision). The amendments referred to in recital (3) of this decision did not affect that assessment as confirmed in the respective Commission decisions thereon (recitals (19) to (26) of the amending decision). The Commission therefore refers to the respective assessment of the initial decision.
- (37) The Commission considers that the re-introduction for a limited period of time of the initial aid scheme, as amended, is appropriate to ensure that national support measures effectively help affected undertakings during the COVID-19 pandemic. The notified measure does not affect the conclusion of the compatibility assessment made under the initial decision and confirmed in the amending decision specified in recital (3). In particular, the Commission notes that aid under the schemes can only be granted until 30 June 2022, as described in recital (6) of this decision. The scheme thus comply with point 22 (d) of the Temporary Framework.
- (38) Furthermore, the Commission notes that maximum aid amounts per beneficiary under section 3.1 are increased to EUR 345 000 (recitals (7) and (32)(b) of this decision). The measure thus complies with point 23(a) of the Temporary Framework.
- (39) 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, Croatia will ensure, 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 345 000 is not exceeded per undertaking (recital (32)(b) of this decision). The measure therefore complies with point 23bis of the Temporary Framework.
- (40) In addition, the notified amendments in recital (9)(a) to (9)(c) of this decision do not affect that conclusion. In particular, reintroducing the initial definition of the eligible beneficiaries (recital (9)(a) of this decision) as defined in the initial decision do not affect the compatibility assessment. Respectively, the implementation of the new reference period for losses (recital (9)(b) of this decision) is a direct consequence of the re-introduction of the measure.
- (41) Further, the new aid calculation method described in Section 2.1 of this decision (see recital (9)(c) of this decision) does not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014 (recital 27 of this decision). In particular, the aid is not fixed on the basis of price or quantity of products purchased or put on the market. Thus, the condition laid down in point 23(c) of the Temporary Framework is met (recital (32)(a) of this decision).

- (42) The notified measure does not affect the conclusion of the compatibility of the monitoring and reporting rules laid down in section 4 of the Temporary Framework made under the initial decision (recital (53) of the initial decision) and confirmed in the amending decision (recital (25) of the amending decision). The notified measure does not affect the cumulation. The aid granted under the measure cannot be cumulated with other aid or de minimis aid to cover the same eligible costs (recital (29) of the initial decision and recital (25) of the amending decision). Therefore, the cumulation rules are respected.
- (43) Croatia confirms that the notified measure does not introduce further amendments to the initial aid schemes, as amended, and that all other conditions of those schemes are unaltered (recital (29) of this decision).
- (44) The Commission therefore considers that the notified 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 notified measure, 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