State aid in fisheries and aquaculture

MARE/F4 – Legal matters
State aid in fisheries and aquaculture

• Article 42 TFEU:

  The provisions on competition shall apply to production and trade in agricultural products only to the extent determined by the EP and the Council.

• Article 7 of Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund
State aid in fisheries and aquaculture

• **Paragraph 1:**
  Without prejudice to paragraph 2 of this Article, Articles 87, 88 and 89 of the Treaty shall apply to aid granted by the Member States to enterprises in the fisheries sector.

• **Paragraph 2:**
  Articles 87, 88 and 89 of the Treaty shall not apply to financial contributions from Member States to operations co-financed by the EFF and provided as part of an operational programme.

• **Paragraph 3:**
  National provisions setting up public financing going beyond the provisions of the EFF concerning financial contributions shall be treated as a whole on the basis of paragraph 1.
State aid in the fishery and aquaculture sector

- There are three specific instruments on State aid for fisheries and aquaculture:
  - The **Block Exemption Regulation** (Commission Regulation (EC) No 736/2008, expired – review on-going)
  - The **Guidelines** (Guidelines for the examination of State aid to fisheries and aquaculture, 2008/C 84/06 – review on-going)
The de minimis Regulation

De minimis aid

• Aid measures shall be exempt from the notification requirement, if the following conditions are met:
  • The total aid granted to any one undertaking does not exceed 30 000 € over any period of three fiscal years;
The de minimis Regulation

- The cumulative amount granted to various undertakings in the fisheries sector does not exceed the value set out per Member State in the Annex over any period of three fiscal years (127,880,000 € for Spain, 255,000 € for Malta).

**Member States obligations**

- Check that the conditions and ceilings are respected;
- Record and compile information
- Upon request, provide the information to the Commission.
The de minimis Regulation

Exceptions:

- It applies with the exception of:
  - (a) aid the amount of which is fixed on the basis of price or quantity of products put on the market;
  - (b) aid to export-related activities, namely aid directly linked to the quantities exported (...);
The de minimis Regulation

• (c) aid contingent upon the use of domestic over imported goods;
• (d) aid for the purchase of fishing vessels;
• (e) aid for the modernisation or replacement of main or ancillary engines of fishing vessels;
• (f) aid to operations increasing the fishing capacity of a vessel or equipment increasing the ability of a vessel to find fish;
The de minimis Regulation

• (g) aid for the construction of new fishing vessels or importation of fishing vessels;
• (h) aid to the temporary or permanent cessation of fishing activities unless specifically provided for in the Regulation (EU) No 508/2014;
• (i) aid to exploratory fishing;
• (j) aid to the transfer of ownership of a business;
The *de minimis* Regulation

• (k) aid to direct restocking, unless explicitly provided for as a conservation measure by a Union legal act or in the case of experimental restocking.
The Block Exemption Regulation

- Aid covered by the BER is exempted from the obligation of previous notification.
- Regulation No 736/2008 expired on 31/12/2013 and a new Regulation is in preparation.
- It is likely that the same approach is chosen:
  - applies to small and medium-sized enterprises (SMEs) active in the production, processing or marketing of fisheries products.
  - Threshold of EUR 1 million per beneficiary per year.
The Block Exemption Regulation

- The link with the EMFF could be maintained or even reinforced:
  - include operations eligible under the EMFF and respecting the conditions of the EMFF.
  - Include the provisions on admissibility of applications and on ineligible operations from the EMFF (Articles 10 and 11 EMFF).

- The new FIBER should be adopted before the end of the year.
Guidelines for the examination of State aid to fisheries and aquaculture

• Any other type of State aid must be previously notified to the Commission. It can not be implemented before approval from the Commission.
• The compatibility of the notified aid is assessed under the Guidelines.
• Aid needs to comply with some principles:
  - Consistency with the Competition Policy and the Common Fisheries Policy
  - Consistency with EU support provided by the EFF
  - Incentive effect
  - Transparency.
Guidelines for the examination of State aid to fisheries and aquaculture

The following categories of aid may be declared compatible if the conditions set out in the Guidelines are met:

• Aid of the same kind as aid covered by a BER;
• Aid falling within the scope of certain horizontal guidelines
• Aid for investment on board fishing vessels
• Aid to make good damage caused by natural disasters, exceptional occurrences or specific adverse climatic events
Guidelines for the examination of State aid to fisheries and aquaculture

• Tax relief and labour related costs concerning Community fishing vessels operating outside Community waters
• Aid financed through parafiscal charges
• Aid for marketing of fishery products from the outermost regions
• Aid concerning the fishing fleet in the outermost regions
• Aid for other measures provided it serves clearly the objectives of the Common Fisheries Policy.
Guidelines for the examination of State aid to fisheries and aquaculture

• New Guidelines are in preparation.
• The general approach should be the same and notably the link with the EMFF should be maintained and reinforced.

• Adoption is expected before the end of the year or in January 2015.
Thank you for your attention!