Commission Regulation (EU) 2016/2105 of 1 December 2016 amending Annex I to Regulation (EC) No 794/2004 as regards the form to be used for the notification of State aid to the fishery and aquaculture sector

COMMISSION REGULATION (EU) 2016/2105

of 1 December 2016

amending Annex I to Regulation (EC) No 794/2004 as regards the form to be used for the notification of State aid to the fishery and aquaculture sector

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union[(1)], and in particular Article 33 thereof,

After consulting the Advisory Committee on State aid,

Whereas:

(1) Commission Regulation (EC) No 794/2004[(2)] sets out detailed provisions concerning the form, content and other details for the notification of State aid. It provides that the supplementary information needed for the assessment of aid measures in accordance with regulations, guidelines, frameworks and other texts applicable to State aid is to be provided in the supplementary information sheets set out in Part III of Annex I to that Regulation.

(2) Regulation (EC) No 794/2004 also provides that whenever the relevant guidelines or frameworks are modified or replaced, the Commission is to adapt the corresponding forms and information sheets.

(3) Following the adoption by the Commission of the Guidelines for the examination of State aid to the fishery and aquaculture sector[(3)], the rules applied by the Commission in assessing the compatibility of State aid measures with the internal market have changed. Accordingly, it is necessary to replace the supplementary information sheet for the notification of State aid to the fishery and aquaculture sector set out in Part III of Annex I to Regulation (EC) No 794/2004.

(4) Regulation (EC) No 794/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 794/2004 is amended in accordance with the Annex to this Regulation.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) 2016/2105. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1 December 2016.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

In Annex I to Regulation (EC) No 794/2004, Part III.14 is replaced by the following:

PART III.14

SUPPLEMENTARY INFORMATION SHEET FOR STATE AID TO THE FISHERY AND AQUACULTURE SECTOR

This supplementary information sheet must be used in the case of the notification of an aid measure which is covered by the Guidelines for the Examination of State Aid to the Fishery and Aquaculture Sector[(4)]*("the Guidelines").*

1. Common assessment principles

1.1. Does the aid measure satisfy the following common assessment principles? If yes, or if the aid measure is not required to satisfy the principle of incentive effect set out in Section 3.6 of the Guidelines, please tick the appropriate box:

the aid measure contributes to a well-defined objective of common interest;

need for State intervention: the State aid measure is targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself, for example, by remedying a market failure;

appropriateness of the aid measure: the aid measure is an appropriate policy instrument to address the objective of common interest;

incentive effect: the aid changes the behaviour of the undertaking(s) concerned in such a way that it engages in additional activity which it would not carry out without the aid or it would carry out in a restricted or different manner or location; or the aid is not required to have an incentive effect under point (52) of the Guidelines;

proportionality of the aid (aid limited to the minimum necessary): the aid amount is limited to the minimum needed to induce the additional investment or activity in the area concerned;

avoidance of undue negative effects on competition and trade between Member States: the negative effects of the aid are sufficiently limited, so that the overall balance of the measure is positive;

transparency of the aid: Member States, the Commission, economic operators, and the public have easy access to all relevant acts and to pertinent information about the aid awarded thereunder.

1.2. Does the aid measure or any condition attached to it, including its financing method when that method constitutes a non-severable part of the measure, entail a violation of Union law?

# Yes	# No

1.3. Is the aid for export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a

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distribution network, or to other costs linked to the export activity or is the aid contingent upon the use of domestic over imported goods?

# Yes	# No

Please note that, if the answer to the questions set out in points 1.2 and 1.3 is yes, the aid is incompatible with the internal market, as set out in points (26) and (27) of the Guidelines.

1.4. Is the aid granted to an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market?

Please note that this does not apply to aid to make good the damage caused by natural disasters under Article 107(2)(b) of the Treaty.

# Yes	# No

If the answer is yes, please indicate the relevant Commission decision:

2. Specific principles for the fishery and aquaculture sector

2.1. In the case of an aid scheme, are the applications inadmissible if they are from operators that have committed one or more of the infringements or offences set out in Article 10(1) of Regulation (EU) No 508/2014 of the European Parliament and the Council[(5)] or a fraud as set out in Article 10(3) of that Regulation during the period set out in the delegated acts adopted on the basis of Article 10(4) of that Regulation?

Please note that this principle does not apply in the case of aid that meets the specific conditions set out in Sections 4, 5.3, and 5.4 of the Guidelines.

# Yes	# No

If the answer is yes, please indicate the specific provisions on inadmissibility:

2.2. In the case of individual aid, please confirm that the operator concerned has not committed one or more of the infringements or offences set out in Article 10(1) of Regulation (EU) No 508/2014 or a fraud as set out in Article 10(3) of that Regulation during the period set out in the delegated acts adopted on the basis of Article 10(4) of that Regulation?

Please note that this principle does not apply in the case of aid that meets the specific conditions set out in Sections 4, 5.3, and 5.4 of the Guidelines.

# Yes	# No

2.3. Does the aid measure explicitly provide that each undertaking must comply with the rules of the common fisheries policy (CFP) throughout the period of implementation of the project and for a period of five years after the final payment to the beneficiary?

# Yes	# No

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2.4. Please confirm that a beneficiary that has committed one or more of the infringements set out in Article 10(1) of Regulation (EU) No 508/2014 throughout the period of implementation of the project and for a period of five years after the final payment to the beneficiary must reimburse the aid.

# Yes	# No

2.5. Please confirm that no aid is granted for activities that correspond to ineligible operations under Article 11 of Regulation (EU) No 508/2014.

# Yes	# No

2.6. If the answer to the questions set out in Sections 2.3, 2.4 and 2.5 of this Supplementary Information Sheet is yes, please indicate the specific provisions of the relevant national legal act or acts that set out the conditions referred to in those questions:

2.7. If the aid measure is of the same kind as an operation that is eligible for funding under Regulation (EU) No 508/2014, does it comply with the relevant provisions in that Regulation for that kind of operation, in particular, with the provisions on the intensity of public aid?

# Yes	# No

If no, please demonstrate the justification for and the indispensability of the aid:

3. Contribution to a common objective

3.1. Does the aid measure fall under Sections 4, 5.1, 5.3 or 5.4 of the Guidelines and fulfil the specific conditions set out in the relevant Section?

# Yes	# No

If the answer is yes, please note that the Commission considers that the aid measure contributes to achieving an objective of common interest and disregard Sections 3.2 and 3.3.

3.2. Please identify the objective or objectives of common interest set out in Article 107(3) of the Treaty which the aid measure contributes towards achieving:

3.3. Please identify the objective or objectives of the CFP which the aid measure contributes towards achieving and clearly demonstrate how the aid measure contributes to achieving this objective or these objectives without negatively affecting other CFP objectives[6]: