

Invitation to submit comments on the draft Commission regulation 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

(2014/C 92/02)

Interested parties may submit their comments within one month of the date of publication of this draft regulation to:

European Commission
Directorate-General for Maritime Affairs and Fisheries
1049 Bruxelles/Brussel
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E-mail: mare-aidesdetat@ec.europa.eu

The text is also available on the following website:

http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/de-minimis-regulation-second-draft/index_en.htm

DRAFT COMMISSION REGULATION (EU) No .../...

of 28 March 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

(2014/C 92/03)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid ⁽¹⁾,

Having published a draft of this Regulation ⁽²⁾,

After consulting the Advisory Committee on State Aid,

Whereas:

(1) State funding meeting the criteria in Article 107(1) of the Treaty constitutes State aid and requires notification to the Commission by virtue of Article 108(3) of the Treaty. However, under Article 109 of the Treaty, the Council may determine categories of aid that are exempted from this notification requirement. In accordance with Article 108(4) of the Treaty, the Commission may adopt regulations relating to those categories of State aid. By virtue of Regulation (EC) No 994/98 the Council decided, in accordance with Article 109 of the Treaty, that *de minimis* aid could constitute one such category. On that basis, *de minimis* aid, being aid granted to a single undertaking over a given period of time that does not exceed a certain fixed amount, is deemed not to meet all the criteria laid down in Article 107(1) of the Treaty and is therefore not subject to the notification procedure.

(2) The Commission has, in numerous decisions, clarified the notion of aid within the meaning of Article 107(1) of the Treaty. The Commission has also stated its policy with regard to a *de minimis* ceiling below which Article 107(1) of the Treaty can be considered not to apply, initially in its notice on the *de minimis* rule for State aid ⁽³⁾ and subsequently in Commission Regulations (EC) No 69/2001 ⁽⁴⁾ and (EC) No 1998/2006 ⁽⁵⁾. In view of the special rules which apply in the fishery and aquaculture sector and of the risks that even low levels of aid could fulfil the criteria laid down in Article 107(1) of the Treaty, the fishery and aquaculture sector was excluded from the scope of those Regulations. The Commission has already adopted a number of Regulations providing rules on *de minimis* aid granted in the fishery and aquaculture sector, the latest of which was Regulation (EC) No 875/2007 ⁽⁶⁾. By virtue of that Regulation, the total

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.

⁽²⁾ OJ C 92, 29.3.2014, p. 22.

⁽³⁾ Commission notice on the *de minimis* rule for State aid (OJ C 68, 6.3.1996, p. 9).

⁽⁴⁾ Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid (OJ L 10, 13.1.2001, p. 30).

⁽⁵⁾ Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid (OJ L 379, 28.12.2006, p. 5).

⁽⁶⁾ Commission Regulation (EC) No 875/2007 of 24 July 2007 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the fisheries sector and amending Regulation (EC) No 1860/2004 (OJ L 193, 25.7.2007, p. 6).