

Brexit – Pelagic Fisheries Support Scheme

1. Legal Basis and State Aid

This Scheme has been submitted to the European Commission for State Aid approval and no application will be approved for aid pending State Aid approval. Aid may be granted under this scheme as of from the notification of the Commission's decision approving the measure.

Expenditure under this scheme will be proposed for funding under the Brexit Adjustment Reserve.

2. Managing Authority and Intermediate Body

- The Managing Authority for the Pelagic Fisheries Support Scheme (hereafter referred to as the Scheme) is the Department of Agriculture, Food and Marine (DAFM).
- The implementing Authority for the Scheme is Bord Iascaigh Mhara (BIM).
- BIM with the agreement of the Managing Authority, reserves the right to alter or amend the conditions of this scheme and/or to suspend the scheme or to substitute the scheme for a different scheme.
- Funding for this scheme is subject to funding being available to BIM. In every case payment of support is contingent on the availability of finance to BIM.

3. Task Force Recommendation

Recognising the significant impact of the TCA on the Irish Seafood Sector, the Minister for Agriculture, Food and the Marine set up a Seafood Task force in March 2021. The Task Force was requested to examine the implications arising from the EU/UK TCA for the Irish Fishing industry and coastal communities particularly dependent upon it. Based on their deliberations, the Task Force was asked to outline initiatives that could be taken to provide supports for development and restructuring so as to ensure a profitable and sustainable fishing fleet as well as identifying opportunities for jobs and economic activity in coastal communities dependent on fishing.

In relation to the RSW pelagic fleet segment, the Task Force recommended a support scheme to ameliorate short-term losses suffered by these vessels as a result of quota transfers to the UK from the EU under the Trade and Cooperation Agreement (TCA). The Task Force recognised that particular issues arose in respect of the seasonal nature of the pelagic fisheries and the way the pelagic vessels operate. The Task Force agreed to actively explore as a matter of priority, in the context of the need for adjustment and rebalancing in the longer term for this fleet segment, possible short-term supports to prepare for the changed situation with a view to submitting a reasoned case for such support measures to the Minister.

The Task Force recognised that the RSW pelagic segment has been subject to the largest TCA related quota reductions for their main target species of mackerel. In addition to the RSW pelagic vessels, there are 27 polyvalent vessels (so-called Tier 1 and Tier 2 vessels) that have authorisations to fish for mackerel against an allocation of mackerel set aside for these vessels. These vessels have also suffered short-term losses associated with the transfer of mackerel quota to the UK.

Specifically, the Task Force recommended:

“The Task Force has recognised, from the outset, that the most important initiative for the Irish RSW pelagic sector is the Burden Sharing actions as detailed in section 2.3.

“The Task Force considered the proposal submitted by the KFO and IFPO, recognising the RSW pelagic segment of the fleet has been subject to the largest TCA related quota reductions. The Task Force notes that the KFO and IFPO proposal outlines a range of restructuring measures, which will help the fleet segment adapt to the new situation post-TCA.

Based on the proposal submitted, the Task Force recommends:

“The Task Force recommends that before the proposed liquidity aid scheme can proceed further, it should be fully assessed from a legal perspective, compliance with the public expenditure code and against the EU BAR State Aid Guidelines for the fishery and aquaculture sector.

Furthermore, the Task Force recommends that further analysis and consideration be given to a scheme by the sector to ameliorate the impact of mackerel cuts on the RSW pelagic segment and Tier 1 vessels. Any such scheme should have regard for similar schemes which are, or maybe approved other Member States’ pelagic fleets, impacted by the TCA. Any such scheme, where developed, must have regard for the seasonal nature of this fishery and relevant fishing patterns and will require national and EU State aid approval”.

This scheme represents the implementation of this recommendation.

4. Background

The TCA represents a significant and permanent loss of quota. The Task Force recognised that the RSW Pelagic segment of the fleet have suffered the largest TCA related quota reductions for their main target species of mackerel. There are 23 RSW vessels in this fleet segment, targeting pelagic species such as mackerel, horse mackerel, blue whiting, herring, and boarfish during Q1 and Q4. These vessels typically tie-up for Q2 and Q3 except for some which participate in the albacore fishery in Q3 and fish less than 100 days per year. Based on historic vessel length, the RSW vessels are split into 3 categories/ratios which determine their allocation. These are “10 ratio” comprising 8 vessels; “7 ratio” comprising 9 vessels; and “5 ratio” comprising 6 vessels.

Based on the actual quota allocations (i.e., post-Brexit) for the period 2021-2022 compared to the quotas that would have been allocated under relative stability pre-Brexit, the total quota losses are estimated at around €36.8 million. This results from a reduction in mackerel quota of 27,184 tonnes, taking the average first sales price over the period 2021-2022.

For the RSW pelagic fleet segment, this represents a quota loss of 20,130 tonnes (€27.3 million) given the RSW vessels is allocated 87% of the Irish mackerel quota after 2% for whitefish bycatch and 400 tonnes for vessels under 15 metres in length overall fishing exclusively by hooks and lines have been deducted. The remaining 13% of the quota is allocated to polyvalent vessels. This is broken down into 76.5% allocated to 15 Tier 1 vessels; 21% to 12 Tier 2 vessels; and 2.5% to vessels operating in the under 18 metres open fishery. Over the period 2021-2022, the quota lost to the polyvalent vessels amounted to 7,054 tonnes (€9.6 million).

Given the scale of the reduction, it is expected that some level of permanent restructuring of this segment of the fleet is likely to be necessary. In the context of the need for adjustment and rebalancing in the longer term, it is considered that some short-term support to prepare for the changed situation may be justified.

5. Brexit Adjustment Reserve

Regulation 2021/1755 of 6 October 2021 established the EU Brexit Adjustment Reserve. The objective of the Reserve is to provide support to counter the adverse economic, social, territorial and environmental consequences of the withdrawal of the United Kingdom from the Union in Member States, including their regions and local communities, and sectors, in particular in those that are most adversely affected by the withdrawal, and to mitigate the related negative impact on the economic, social and territorial cohesion. The Reserve may support measures carried out by Member States to contribute to the aforementioned objectives.

In terms of measures most relevant to this scheme, support may be provided to compensate vessel owners and fishers for their income loss related to the TCA-induced quota share reductions, to lack of access to UK waters or other third country waters or to negative impacts on trade patterns and logistics (non-tariff barriers) as a direct consequence of Brexit. Such measures should grant to the beneficiaries the financial means to overcome the first and immediate impact, thereby enabling them to re-organise themselves and to adapt to the new situation.

The scheme, as far as is practicably possible, follows the guidelines set out in the Commission non-paper "State aid in the fishery and aquaculture sector to mitigate the effects of the withdrawal of the UK from the European Union". In particular, the scheme clearly shows that the measures envisaged are not directed towards causes other than the impacts of Brexit. Additionally, in developing the scheme, key principles contained in a similar Danish scheme which has recently received State Aid approval (SA.101089 Compensation to vessel owners for the loss of quota values due to Brexit) have also been considered. The Danish scheme compensates vessel owners for the loss of individual quota as a result of Brexit, valued according to the market price for trading this quota on the open market. It is not based on the individual turnover of vessel owners. While in Ireland quota is a national asset and is managed to ensure that property rights are not granted to individual operators, losses to national quota directly reduce the revenue of individual operators to the same extent as loss of privately owned quota in other Member States.

6. Scheme Rationale

The scheme will compensate owners of RSW pelagic vessels and polyvalent Tier 1 and Tier 2 vessels that have suffered losses of mackerel quota over the period 2021-2023 as a result of the quota transfers to the EU under Brexit. The support is designed to stabilise cashflow and assist vessel owners to re-structure their operations in light of the loss of earnings associated with the reduction of available quota under the TCA. The short-term aid as outlined is essential financial support to allow the 23 RSW vessels and the polyvalent Tier 1 and Tier 2 vessels sufficient time to put in place longer-term restructuring measures.

An analysis carried out by BIM for the Task Force shows that given the magnitude of TCA losses, 8 out of the 23 RSW vessels equating to 36% of RSW fleet in numbers and 6,128 GT would be required to be decommissioned to return the fleet segment to profitability levels pre-Brexit. Given the extremely high value of RSW capacity compared to polyvalent tonnage, a decommissioning scheme would be unaffordable. Therefore, as part of the Task Force, the pelagic industry put forward a suite of long-term restructuring measures that will be actively pursued and which have a reasonable chance of success in the three-year time frame. These can be categorised into number of broad categories:

1. Short-term burden sharing options.

The short-term burden sharing options identified already in the interim Task Force report such as equalisation of the TCA mackerel reduction over the four management areas, loss of Hague Preferences by the UK, Coastal States negotiations and swaps will be actively pursued.

2. Sustainability

The vessel owners are committed to continued participation in the Fishery Improvement Project (FIP)¹ for Northeast Atlantic mackerel being coordinated under the umbrella of the will continue its participation in the North Atlantic Pelagic Advocacy Group (NAPA). The aim of the FIP is to implement management improvements with a goal to re-certify the mackerel fishery against the MSC Standard by 2024. The FIP will drive sustainability in the fishery by pushing for an agreement on total allowable catches (TACs) in line with scientific advice, as well as feeding into long-term science-based fisheries management strategies.

3. Efficiencies

All operational and management efficiencies will be pursued to increase EBITA thus reducing the effect of the TCA losses. This includes a commitment to put in place measures to reduce the carbon footprint of the fishery.

4. Diversification

The RSW vessels are tied up for six months of year. This provides opportunities to diversity in non-fishing activities, as well as alternative fisheries in third-country waters.

5. Price Increases

Increasing the prices for all the pelagic species targeted by RSW vessels through a range of marketing and other initiatives would ameliorate some of the losses. In 2022, the price of mackerel increased by around 20% compared to 2021, which has helped to offset the reduction in available quota.

Additionally, as part of the Scheme, applicants will be required to participate in a scientific sampling programme to be coordinated by the Marine Institute. This will aim to improve the quality of biological data on mackerel that will feed into the stock assessment and management of mackerel.

7. Scheme Objectives

The purpose of the scheme is to provide short-term aid in the years 2021-2022 to vessel owners in the RSW pelagic segment, Polyvalent Tier 1 and Tier 2 vessels with a pelagic entitlement. This aid is to compensate for their income loss related to the TCA-induced quota share reductions as a direct consequence of Brexit. This will provide the owners the financial means to overcome the first and immediate impact of the TCA, thereby enabling them to re-organise themselves and to adapt to the new situation. The Scheme aims to mitigate the losses in mackerel quota according to the transfers of quota from the EU to the UK as set out in Annex FISH.1 and FISH.2 of the TCA over the period 2021-2023.

¹ <https://fisheryprogress.org/fip-profile/northeast-atlantic-ocean-mackerel-and-herring-hook-line-trawl-and-purse-seine>

8. Description of Scheme

The scheme will operate in 2023 only. In accordance with the State Aid decision, section 2.6, aid may be granted until 31 December 2023 at the latest.

The main elements of the scheme are as follows:

1. The scheme would be restricted to all eligible vessels in the RSW pelagic segment as well as Polyvalent Tier 1 and Tier 2 vessels fishing for mackerel in 2021 and 2022.
2. While quota remains a national asset, its reduction represents lost fishing opportunities for those vessels operating in the pelagic sector.
3. The payments under the scheme represent the value of reduced fishing opportunities which resulted from the actual loss of mackerel quota in 2021 and 2022 as a result of the quota transfer of quota to the UK under the TCA agreement. The total amount of transferred quota amounts to 11,305 tonnes in 2021 and 13,190 tonnes in 2022. The loss of mackerel per vessel in 2021 and 2022 in monetary terms is equivalent to the loss of one month's fishing opportunities per annum.
4. The value of the payment is calculated on the average monthly turnover per vessel, less cost of fuel and provisions, over the period 2018-2020, compensating for one month per annum for 2021 and 2022.
5. Vessels availing of the Scheme must sign up to a scientific sampling programme to be administered by the Marine Institute. This sampling programme will require the collection of scientific data relating at the haul level sampling for all species, measuring for length and weight and optionally retaining biological samples for delivery to scientists ashore. Haul level information on the bycatch, including incidental by catches of sensitive species such as cetaceans will also be required. Combination of this data will provide valuable scientific information on stock distribution, migration behaviour, age data and bycatch.
6. Given that the crew of these vessels have experienced lost income as a result of reduced shares, beneficiaries must ensure that a minimum of 30% of the payment is distributed equally amongst those who were crew members of the vessel since January 2021.
7. The applicant must submit the names of the crew members, copy of their safety card(s), and any other documentation as required for governance of the Scheme. The payment must be made by electronic bank transfer to an account held in the name of the crew member. Proof of payment must be retained by the applicant. BIM reserve the right to inspect such records at any reasonable time.
8. In accordance with the Commission non-paper "State aid in the fishery and aquaculture sector to mitigate the effects of the withdrawal of the UK from the European Union", the amount of liquidity aid will be reduced by the amount of temporary cessation support **paid in respect of temporary cessation during the pelagic fishing season (January to March and November to December) and** received by operators in the period between 1 January 2021 and the date of receiving the payment for the liquidity aid. In the case of temporary cessation, support provided directly to crew as part of these schemes will not be deducted from the liquidity aid payable to vessel owners.

9. Eligible Beneficiaries

This scheme would support owners of vessel owners in the RSW pelagic segment, Polyvalent Tier 1 and Tier 2 vessels with an authorisation to fish for mackerel.

10. Ineligible Beneficiaries

Vessels not licensed in the RSW pelagic segment or polyvalent vessels without an authorisation to catch mackerel and all vessels in other fleet segments.

11. Scheme Payments

Scheme payments would be based on the equivalent average loss of revenue for one month's fishing opportunity per vessel class per annum in 2021 and 2022, less variable costs of fuel and provisions reduced as a result of decreased fishing activity.

RSW	No of Vessels	Average Monthly turnover per vessel less cost of fuel and provisions	Payment per vessel
"10" Ratio	8	€592,000	€1,184,000
"7" Ratio	9	€414,000	€828,000
"5" Ratio	6	€350,000	€700,000
Tier Boats			
Tier 1	15	€99,000	€198,000
Tier 2	12	€59,000	€118,000

The estimated total cost of the scheme assuming 100% take up is estimated at €25.6 million.

12. Selection Process

Step	Description	Carried Out By
Call for proposals	BIM will invite applications from eligible vessel owner(s) and companies.	BIM
Eligibility Check and evaluation	To ensure compliance and eligibility.	BIM

Payment	<p>BIM will issue letters of offer to successful applicants and applicants will be required to formally accept the offer.</p> <p>Participants will be paid following verification of compliance with the T&Cs.</p>	BIM
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13. Publicity and Acknowledgement of Support Requirements

BIM and the Department of Agriculture Food and the Marine will within six months of payment publicly acknowledge the aid provided via their website or other publications. This may include information such as the applicant/company name, vessel name, the county, NUTS 2 Region, enterprise size (SME etc), economic sector, grant aid paid, % grant rate and portion funded under the scheme, date of payment, form of aid. This information will be made available to the general public without restriction and will be maintained for at least 10 years.

14. Terms and Conditions

1. To qualify for grant aid under this scheme the following terms and conditions must be met in all cases. Applicants should please note that these terms and conditions will apply to all applications. Applications that fail to comply with these terms and conditions will be deemed ineligible and will not be considered further.
2. The implementing authority, with the agreement of the Managing Authority, reserves the right to alter or amend the conditions of this scheme and/or to suspend the scheme or to substitute the scheme for a different scheme, subject to State Aid Notification.
3. Funding for this scheme is subject to funding being available to the implementing authority. In every case payment of grant aid is contingent on the availability of finance to the implementing authority.
4. The implementing authority will supply identification details of applicants to the Managing Authority for the purposes of checking compliance with the terms and conditions of this scheme and compliance with information and publicity requirements.

Applications

5. Only applications submitted on an official BIM electronic application form sent via the BIM grants portal will be considered for grant aid approval.
6. Acknowledgement of an application does not constitute any form of entitlement to any form of grant aid whatsoever and neither should the applicant constitute any assistance given by officers of the implementing authority as a form of indication that grant aid will become available.
7. The implementing authority will determine the eligibility of applications and applications that do not meet all the mandatory criteria will be deemed ineligible and will be returned to the applicant with an explanatory memorandum.
8. Failure to accept the letter of offer in a timely manner may result in non-payment of grant aid.

9. Officers of BIM, the Department of Agriculture, Marine and Food, Comptroller and Auditor General (C&AG), auditors appointed by BIM or the European Commission or their agents, must be allowed access to all reports, manuals and official documentation including financial and other records related to the project being grant aided for the audit and verification purposes. All requests for information must be responded to promptly.
10. As the application will be made through the BIM on-line Grants Portal, the implementing authority does not require a hard copy of the application. However, any original supporting documentation for all on-line applications, must be made available should it be requested at any stage by Officers of the implementing authority and the Department of Agriculture, Food and the Marine or their agents.
11. No aid shall be granted for types of operations or expenditure identified under Article 13 of the EMFAF Regulation (Regulation 2021/1139) as ineligible.

Applicants

12. The applicant must complete a self-declaration confirming that none of the situations specified in article 11 of the EMFAF Regulation (Regulation 2021/1139) applies to them, and if they do, provide details. In that declaration, the applicant shall commit to continuing to comply with the rules of the Common Fisheries Policy and with the article 11 provisions throughout the project period and for a period of 5 years after payment. Applications will be deemed inadmissible for a specified period of time where the implementing authority determines that any of the situations described in article 11 apply to them. Beneficiaries of aid under this scheme who fail to comply with the CFP and with article 11 for a 5-year period after payment will be required to repay aid provided under this scheme.
13. The applicant and an external accountant must complete a signed declaration to verify that the business is commercially viable and not in financial difficulty.
14. The applicant must complete a signed declaration that the company has no director or shadow director or other officer who has a conviction for an offence concerning professional misconduct, fraud, corruption, involvement in a criminal organisation, theft, money laundering or any other illegal activity where such illegal activity is detrimental to the European Union's financial interests.
15. An applicant who has benefited from earlier unlawful aid declared incompatible by a Commission Decision (either as an individual aid or an aid under an aid scheme being declared incompatible) shall not be eligible for aid under this scheme until that applicant has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.
16. Applicants must comply with the Department of Public Expenditure and Reform Circular 13/2014 – Management of and Accountability for Grants from Exchequer Funds. Where an applicant is required to file audited accounts with the Companies Registration Office (CRO), these accounts must detail the following information explicitly:
 - Name of Grantor ((Circular 13/2014 Section 5, subsection 21 (a))
 - Name of the Grant Scheme / Programme (Circular 13/2014 Section 5, subsection 21 (b))
 - Purpose of the Grant by appropriate heading (Circular 13/2014 Section 5, subsection 21 (c))
 - Accounting information for the Grant (Circular 13/2014 Section 5, subsection 21 (d))
 - Capital Grant information (if applicable) (Circular 13/2014 Section 5, subsection 21 (e))
 - Employee numbers and benefits categorised, and employer pension contributions (Circular 13/2014 Section 5, subsection 21 (f))

17. The applicant must demonstrate to the satisfaction of the implementing authority its legal identity.
18. The applicant must demonstrate financial viability (at an organisation or individual level as appropriate).
19. The applicant must comply with the Department of Finance tax clearance procedures. The applicant must provide a Tax Reference Number and Tax Clearance Access Number.
20. Where appropriate the applicant must comply with the provisions of the Data Collection Regulation.
21. The applicant shall indemnify and keep indemnified the implementing authority against all costs, loss, damage and expenses sustained by them and against any claims that may be brought by any partner, employee, agent, sub-contractor or any kind or other party arising out of this project whether by reason of or on account of the breach, default, neglect, non-performance or non-observance by the Grantee or the partners of any of them of the terms and conditions of this Agreement or otherwise.
22. For all beneficiaries receiving more than EUR 30 000 under the scheme:
 - a. Beneficiaries must complete a declaration in writing confirming they will not increase their active fishing capacity (in GT and kW) from the date the scheme opens for applications until three years after the payment of the aid. This obligation applies to owners of vessels and to indirect owners with controlling influence over the vessel for which compensation of quota losses is received.
 - b. If a beneficiary increases his or her active capacity before the three-years commitment period has elapsed, the compensations received must be repaid *pro rata temporis*.
 - c. Regarding point a) beneficiaries may increase the gross tonnage of a fishing vessel to improve safety, working conditions or energy efficiency if the conditions of Article 19(1) and Article 19(2)(a) and (d) and Article 19(3) of the EMFAF Regulation (2021/1139) are fulfilled.
 - d. Investments for the replacement or modernisation of beneficiaries' engines that would not comply with Article 18 of the EMFAF regulation can only be allowed for vessels that are part of the fleet segments the capacity of which is in balance with their fishing opportunities, and thus meet the condition of Article 18(2)(a) of the EMFAF Regulation (2021/1139).
 - e. Compensation may not be used to increase the capacity to catch and store fish onboard.
23. Grant aid may be revoked, or the amount of grant aid be reduced if any of the following should occur:
 - Failure by the grant beneficiary(s) to provide required Tax Clearance information.
 - Should the Grantee commit any breach of the terms of the agreement.
 - Should there be a change in the basis of the undertaking which would obviate in whole or in part the purpose for which the grant was made.
 - An order is made, or an effective resolution is passed, for the winding up of the grantee's business.
 - Should the grantee transfer the vessel concerned outside the Union within 5 years of the payment of support under this scheme.

Claims

24. Applicants do not have to submit a separate claim form. Payments will be made once the following pre-payment conditions have been met:

- The applicant has accepted a letter of offer.
 - The applicant continues to meet the admissibility requirements of article 11 EMFAF.
 - The applicant meets all tax clearance requirements.
25. Payment will be made into the nominated bank account given on the application form after the above conditions have been met. The implementing authority will endeavour to expedite payments in a timely manner.
26. Payment of grant aid will only be made when all scheme terms and conditions and any special conditions listed in the letter of offer have been fulfilled.
27. Applicants must settle any outstanding debts owed to the Department of Agriculture Food and Marine before grant aid may be paid.

Appeals

28. BIM will provide on request a written explanation for award decisions. Following receipt of that explanation, appellants may request that an appeal be considered by an appeals officer appointed for that purpose. An appeals mechanism shall be put in place to adjudicate on appeals from applicants dissatisfied with the determination of their application.

Declarations

29. The applicant must complete a self-declaration confirming that they meet all criteria of the scheme and are compliant with the terms and conditions of the scheme. Please note that for on-line applications and claims, by submitting the forms, you are electronically signing all declarations that you have agreed to via a checkbox in the form. This is the legal equivalent to a hand-written signature.

15. How BIM will use your information

Any personal data you provide to Bord Iascaigh Mhara (“BIM”) will be retained and processed by us for solely the purpose described in this form and as described in further detail in the BIM Data Protection Policy. Our Policy describes in detail how BIM, as a State Agency, is required to collect, process and transfer personal data for the purposes set out in various Irish and EU fisheries and marine legislation. These purposes include the administration of grants, conducting surveys and performing services for those working in the marine sector, for example, training, education and ice services. Your personal data may be disclosed to third parties where it is necessary and relevant to those purposes, for example, national or EU agencies with responsibility for the marine, grant administration or training awards or accreditation. While BIM does not engage in unsolicited direct marketing, BIM or its agents may contact you in relation to relevant events or initiatives and you can unsubscribe from such communications at any time. You have a right to access and rectify your personal data which can be exercised by writing to the Data Protection Officer, BIM, Crofton Road, Dún Laoghaire, Co. Dublin. The BIM Data Protection Policy is available on the BIM.ie website www.bim.ie.