

Brexit – Specific Scallop Fleet Transition 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 Specific Scallop Fleet Transition 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 tasked with examining 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 and to identify opportunities for jobs and economic activity in coastal communities dependent on fishing.

In relation to the scallop sector, the Task Force recommended a short-term support scheme to ameliorate short-term losses suffered by this fleet segment related to Brexit. While the scallop vessels are not affected by a reduction in quota due to the effect of the TCA, they are bound by the requirement to have Sanitary and phytosanitary (SPS) health certs to introduce live shellfish into the EU through the UK. The UK as a third country is subject to SPS requirements as set out in Chapter 3 of the TCA. The difficulties that this new situation poses to the Irish specific scallop fleet are outlined below in Section 4.

“The Task Force acknowledges that the scallop vessels have been impacted significantly by the UK’s withdrawal from the EU, although this is not directly related to the TCA. In this context and taking account of the EU BAR State Aid Guidelines for the fishery and aquaculture sector, the Task Force has considered the ISEFPO proposal. The situation relating to scallop fishing is different to other situations in that the vessels can continue to fish for scallops and there is no relevant quota limitation. The vessels will need to adjust their operations and route to market considering the relevant phytosanitary requirements.”

Based on the proposal submitted, 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”.

This scheme represents the implementation of this recommendation.

4. Rationale for this Scheme

The Specific Scallop fleet segment comprises vessels of 22-28m, and targets scallop in the Irish Sea, Celtic Sea, and the English Channel. In 2021, the value of scallop landings was €6.3 million annually. The fishery creates significant employment in the south-east of the country both on board the vessels and local shellfish processors.

The scallop sector has not been directly impacted by the loss of quota under the TCA, as scallop are a non-quota species. However, the fishery has experienced significant impacts from indirect effects caused by the TCA which have resulted in significant reductions in fishing time as well as logistical issues that have reduced the profitability of this sector. On average the days at sea fished by the scallop vessels has reduced from 217 days in the period 2018-2020 to 142 days in 2021, a reduction of 34%. This has resulted in reductions in average turnover of €227,000 (37%) across the fleet segment. This represents an averaged loss of 37.5% between trips now landed on the continent compared to previous trips which were being landed in the UK. The fishery has become almost unviable with the effect of reducing Irish scallop fishing opportunities particularly in the English Channel.

Prior to Brexit, scallop caught in the English Channel were landed into the UK and shipped directly back to Ireland for processing in a plant in Kilmore Quay. These processed scallops were then re-exported to other EU countries. Post-Brexit under the TCA, live bivalve molluscs cannot be transported through the UK on route to the EU and therefore cannot be transported via the UK to Ireland. All bivalve molluscs that are destined for the EU that are landed into the UK must be processed in the UK to obtain a Health Cert for the product from the UK authorities. This has meant that scallop now must be either:

1. Landed live into Mainland Europe and transported back to Ireland for processing.

This is the option currently being used by the scallop vessels and is proving to be extremely costly. To maintain the quality of the product which is impacted by the additional transportation times involved in transporting the Scallop from France or Belgium the boats have had to cut each trip by at least one day. This is resulting in a loss per trip of c€5,000. The additional transport time back to Kilmore Quay for processing leads to a c10% weight loss and a reduction in quality, further impacting revenue by around €2,500 per vessel. Compensating the loss of fishing time by making additional trips is not an option due to the additional time steaming to and from France/Belgium to land.

2. Landed live into the UK and processed there, obtain a health certificate and transported either back to Ireland or to the final customer within the EU.

This is being considered by the fleet, but is the least favourable of the options available as it breaks the links with the local community and would result in the loss of local employment in Kilmore Quay. It will also result in Health Certs being needed for the processed product if it is to be sold back into the EU, adding further administrative burden to the operators.

3. Landed live into Ireland and processed before transportation to the final EU customer.

This option is only availed of when the vessels are fishing closer to home. For fishing trips in the English Channel or other areas that are distant from Kilmore Quay it is deemed infeasible as the travel time is too long resulting in the loss of 24 hours of fishing time for every trip and significant additional fuel usage. Quality is also impacted by the long steaming times.

4. Landed live into Mainland Europe and processed in a plant in Mainland Europe and either transported back to Ireland for onward sale or transport directly to the final EU customer.

The Scallop fleet are currently looking at this option as a longer-term solution. However, as there is no pre-existing relationship with processors or sales agents in other Member States, this will take time to put in place. It will also result in the loss to Ireland of the employment and wider community benefits of processing this product in Kilmore Quay and breaks the link with these vessels to their local community.

All these options have posed considerable financial and logistical issues for the sector. Therefore, it is proposed to put in place a short-term liquidity aid scheme covering losses incurred during the 2021 scallop season due to the losses in fishing time, which have led to reductions in turnover. This will assist the Irish scallop fleet to consider all options to restructure and adapt to the issues created by Brexit in the scallop fishery.

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 for a limited period of at most the first three months of 2021, 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. These measures should provide the financial means to overcome the first and immediate impact, thereby enabling them to re-organise themselves and to adapt to the new situation. In grant-aiding such operators there must be a demonstrable causal link between the TCA-induced quota share reduction, the lack of access to UK waters or other third country waters or negative impacts on trade patterns and logistics (non-tariff barriers) on the one hand and the loss suffered by the undertaking concerned on the other hand. The scheme would be accompanied by the development of a longer-term plan exploring all options for the scallop sector in terms of catch transportation, quality, processing and sales. In the longer term, the following restructuring measures are proposed:

1. Cost Reductions: Explore with our EU partners a reduction in Landing fees and other Ancillary charges as well as possible other landing points on the continent where fees are less than current ports.
2. Quality: Work with the Irish processors and BIM to minimise the quality issues currently being experienced post Brexit.

3. Price Increases: Increasing the prices for Scallops through better marketing and other initiatives would alleviate the losses resulting from Brexit
4. Alternative Processors and Markets: Explore the possibility of selling and processing the Scallop in France and elsewhere on the continent. However, this will have the knock-on effect of a loss of income to the Irish processor and a loss of jobs in the local community.

6. Scheme Principles

The measures envisaged in the scheme are directed only to mitigating the impacts of Brexit. This scheme provides for liquidity aid and is intended to address losses incurred over the 12 months of 2021, given that the activity of this fleet segment is predominantly between the months of April to November. It will compensate the owners of scallop vessels who have suffered reductions in turnover of more than 30% in the 12-month period of 2021 compared to the average annual turnover for 2018-to-2020. Payments will be based on the per days at sea lost in 2021 compared to the period 2018-2020, up to a maximum of 20 days.

7. Scheme Objectives

The objective of the proposed short-term aid scheme is to partially offset losses incurred by the scallop sector due to the TCA during 2021 compared to 2018-2020. This is a specific scheme for scallop vessels and is not linked to the temporary cessation schemes.

8. Description of Scheme

The scheme will operate in 2023 only.

The main elements of the scheme are as follows:

1. The scheme would be restricted to the current Specific Scallop fleet segment of vessels ranging in size from 22m to 28m who hold licenses to fish only for scallop and who have proven track record of fishing for scallop off the West and South coast of the UK.
2. The payments under the scheme would be based on the number of fishing days lost in 2021 compared to 2018-2020 by scallop vessels and that can be attributable to Brexit.
3. The loss of turnover must be more than 30% of the average turnover in the same period of the previous three Calendar years (entry threshold). The loss must be due to the consequences of the TCA and establish the calculation of the liquidity support, based on the number of fishing days in each relevant period.
4. The payment would be calculated based on the number of days at sea lost multiplied by the average daily value of landings over the period 2018-2020. Based on available data, the average daily value is calculated at €4,000 per day.
5. The payment would be capped at a maximum of 20 days, resulting in the maximum payment to any vessel of €80,000.
6. A day at sea is defined as any continuous period of 24 hours (or part thereof) during which a vessel is present within an area and absent from port.
7. Days at sea lost would be verified by logbook/VMS data provided by the SFPA.
8. The average daily value of landings would be official data on turnover of vessels in each of the length categories, using official DCF data derived from the National Seafood Survey.
9. Evidence to establish a causal link between the reduction in fishing days and Brexit as well as evidence of the difficulties in market access and trading conditions. This would be verified by sales notes information showing changes in landing patterns from UK ports pre-Brexit to other ports post-Brexit.

9. Eligible Beneficiaries

This scheme would support owners of vessels in the specific scallop segment. To be eligible for funding, vessel owner(s)/company must:

- a) Be considered an SME as defined in Annex 1 of Regulation (EU) 2022/2473 i.e.
 - i. Have a headcount of less than 250 **AND**
 - ii. Have turnover of less than €50m and/or an annual balance sheet total not exceeding €43m
- b) have suffered more than a 30% reduction in turnover over in 2021 compared to the period 2018-2020 as a direct result of Brexit.
- c)

10. Ineligible Beneficiaries

The following enterprises are ineligible:

- Vessels not registered in the specific scallop segment
- Vessel owners/companies that cannot demonstrate a causal link between the TCA and the reduction in turnover of more than 30%.

11. Scheme Payments

Scheme payments would be calculated based on the number of days at sea lost x average daily value of landings, calculated at €4,000 per day up to a maximum of 20 days. A day at sea is defined as any continuous period of 24 hours (or part thereof) during which a vessel is present within an area and absent from port.

The average daily value of landing has been calculated by reference to official data on turnover of vessels in each of the length categories, using official DCF data derived from the National Seafood Survey. The payments It is calculated on the basis of gross earnings averaged for the fleet segment over the period 2018-2020.

Calculation method based on an example vessel:

STEP 1

Average turnover 2018-2020 of €600,000 * 0.30 = €180,000 (30% threshold)

€600,000 (Average turnover 2018-2020) – €285,000 (2021 turnover) = €315,000 loss of turnover

Loss of turnover (€315,000) > 30% threshold (€180,000), therefore beneficiary is eligible.

STEP 2

Average days at sea 2018-2020 = 168 days

Days at sea 2021 = 107 days

Days at sea lost = 61 days

Payment capped at 20 days = 20 days x €4000 per day = € 80,000

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	BIM will issue letters of offer to successful applicants and applicants will be required to formally accept the offer. Participants will be paid following verification of compliance with the T&Cs.	BIM

13. Publicity and Acknowledgement of Support Requirements

BIM and the Department of Agriculture Food and the Marine will within six months of the date of granting the aid publicly acknowledge the aid provided via the following websites www.bim.ie and www.eufunds.ie, 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 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) or in point 61 of Section 3.1.3 of Part 1 Chapter 3 of the 'Guidelines for State aid in the fishery and aquaculture sector' (2023/C 107/10) 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 may 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 throughout the period of implementation of the project and for a 5-year period after the final payment under this scheme will be required to repay aid provided under this scheme.

13. The applicant must complete a signed declaration confirming that they are not subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market
14. The applicant must complete a signed declaration attesting to the elements of the claim relating to loss will form part of the application, in the context of the cross analysis between 2021 and the reference period.
15. 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.
16. 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.
17. 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))
18. The applicant must demonstrate to the satisfaction of the implementing authority its legal identity.
19. The applicant must demonstrate financial viability (at an organisation or individual level as appropriate).
20. Applicants which represent an undertaking in difficulty, as defined by Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (2014/C 249/01), shall not be eligible for support.
21. The aid granted under this scheme, and any other payments received to compensate the same losses, including payments under insurance policies, shall not exceed 100 % of the eligible costs. Applicants must provide information in relation to any other aid or payment received, including any payments under insurance policies, in respect of the losses provided for under this scheme.
22. 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.
23. Where appropriate the applicant must comply with the provisions of the Data Collection Regulation.
24. 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.

25. 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

26. 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; and
 - The SFPA has confirmed to BIM that the applicant's vessel was not found to be engaged in fishing during the tie-up period.
27. Payment will be made automatically into the nominated bank account given on the application form and all of the conditions have been met. BIM will endeavour to expedite payments in a timely manner.
28. 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.
29. 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.
30. 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.

Appeals

31. 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

32. 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.