Recommendation No 88

State aid for aquaculture producers in the European Outermost Regions

In accordance with Article 108 of the Treaty on the Functioning of the European Union (TFEU), with regard to the production, processing and marketing sectors in the Outermost Regions (ORs), and in order to mitigate the specific constraints affecting our territories as a result of their isolation and their status as outermost regions, we submit the following opinion:

1. Situation of aquaculture in the ORs

Marine fish production across all the European Outermost Regions (ORs) is estimated at close to 14,000 tonnes/year. Aquaculture production in the *Canarias* accounts for most of this figure, at 7,819.89 tonnes/year, while the Portuguese ORs produce around 1,500 tonnes/year and the French ORs of the Western Atlantic 200 tonnes/year. Our aquaculture consists essentially of marine fish farming.

Marine fish farming in the ORs is based on the rearing of species such as European seabass (*Dicentrarchus labrax*), gilthead seabream (*Sparus aurata*) and red drum (*Sciaenops ocellatus*), whose growth rates depend on their specific characteristics and on the environmental conditions at the farms.

2. Value of live stock

Production cycles generally range from 12 to 36 months, which means that, before a fish can be marketed, it has been kept in culture for 12 to 36 months. It is estimated that the live biomass held by a marine fish farmer is permanently between 1 and 2 times the tonnage he sells each year (depending on the farm site and the species reared).

The value of the live stock and of the species in production on a fish farm is therefore very high, ranging from 8 months' to 2 years' turnover.

3. Exposure to natural disaster risks not covered by insurance companies

The ORs, and more specifically the French ORs, may be exposed to climate or environmental risks, such as storms, hurricanes or stranding of sargassum mats, which can lead to very significant losses of this live stock. A marine fish farmer in Martinique, for instance, lost all of his live stock as a result of a sargassum mat stranding. A marine fish farmer in Guadeloupe also lost half of the live stock in his offshore facilities when Hurricane Maria struck in 2017, despite having implemented safeguard measures (submerging the cages).

Beyond the loss of live stock, it is the turnover and financial balance of these farms that are most seriously affected, since, following such events, the farms are left for several months with no possibility of making sales and no way of reducing their operating expenses.

The increasing strength of storms and cyclones is one of the expected consequences of global warming. Marine farms will therefore be exposed to ever greater risks of loss.

It should also be recalled that insurance companies refuse to insure marine fish farms in the French ORs of the Western Atlantic, which are exposed to cyclone risks, against the risks of loss of live stock or of damage sustained.

4. A de *minimis* aid ceiling too low to allow a farm to recover after the losses sustained following a natural disaster

In this context, the survival of farms that suffer losses following a natural disaster is closely linked to the capacity of Member States and regional authorities to release and distribute direct emergency aid. This aid is capped by the EU under the so-called de *minimis* aid rules. The ceilings set correspond to the cumulative direct aid authorised over three consecutive fiscal years.

From 1 January 2024 until 31 December 2030, the de *minimis* aid ceilings per farm laid down by the European Commission were raised as follows:

SECTORS	CEILING OVER 3 CONSECUTIVE FISCAL YEARS	FORMER CEILING BEFORE 2024
All sectors, with some exceptions	€300,000	€100,000
Road freight transport for hire or reward	€300,000	€100,000
Agriculture	€50,000	€20,000
Fisheries and aquaculture	€30,000 (or €40,000 if applicable at national level)	€30,000

Considering the data above, we note that:

1- The fisheries and aquaculture sectors are the only ones whose ceiling has not been raised significantly over the last two periods, whereas the other sectors have seen their ceilings multiplied by a factor of 2.5 to 3.

2- For aquaculture, a ceiling of €40,000 corresponds to around 4 tonnes of marketable fish, which is still a very low figure.

The CCRUP considers it important to draw the European Commission's attention to the implications and specific features of these capping methods, whose application raises questions that need to be examined and clarified. Although the fisheries and aquaculture sector remains one of the least supported, the current framework does not provide sufficiently effective, transparent and responsive financial instruments to preserve the existing economic fabric in the event of crises or exceptional disasters. Given the constant increase in the frequency and severity of such events in the EU, the current sectoral and cross-sectoral support system should be revised to enable Member States to react quickly and effectively to protect businesses, jobs and production capacity. In our view, this situation runs counter to the EU's objectives of promoting and supporting the development of aquaculture.

In the light of the above, the CCRUP recommends that the European Commission examine in detail the emergency support mechanisms, including those available under the European Maritime, Fisheries and Aquaculture Fund (EMFAF) and the State aid framework.

5. Tax mechanisms for precautionary savings to improve aquaculture resilience in France

A farmer subject to an actual-profit tax regime in the category of agricultural profits may make a precautionary savings deduction (DEP). The amount is deducted from the taxable profit for the financial year, which temporarily reduces the taxable profit. To benefit from the DEP, the farmer must build up business savings of between 50 % and 100 % of the deduction made, savings which may be drawn on, for example, to meet needs arising from climate risks.

In the case of an aquaculture farm, fish kept in culture for more than one year could therefore, in theory, be covered. However, it must be possible to demonstrate, on the basis of the

farm's actual operation, that its stock turnover period exceeds one year, and to keep an accurate record of stock movements in and out. Moreover, the DEP is reserved for entrepreneurs or companies subject to income tax in the category of agricultural profits under an actual-profit regime. Most aquaculture companies are subject to corporation tax (IS) and are therefore excluded from this mechanism.

The CCRUP therefore recommends that the European Commission create a mechanism comparable to the DEP for aquaculture undertakings subject to IS. This approach would be economically justified, given the value of the live stock, the long production cycles and the exposure to serious risks such as cyclones, diseases and pollution. Nevertheless, it cannot be achieved through an ordinary accounting provision.

At present, it is not possible to freely set aside a tax-deductible provision for a possible disaster. A provision is deductible only where it corresponds to a precisely identified loss or charge made probable by events already in progress at the close of the financial year. A future cyclone or a hypothetical disease does not qualify for this purpose.

For these reasons, the CCRUP recommends the creation of a specific legislative mechanism in the General Tax Code, applicable to aquaculture companies subject to IS.

The CCRUP advocates the promotion of an Aquaculture Resilience Savings Deduction (DERA), proposing that it operate as follows:

5.1. Deduction from taxable profit

An aquaculture undertaking could deduct a fraction of its profit each year, for example: up to 20 or 30 % of taxable profit; with an annual cap of €100,000 or €150,000; and a cumulative cap corresponding, for example, to six months of operating expenses or to 30 % of average aquaculture turnover. This amount could immediately reduce the profit subject to IS. The standard IS rate is currently 25 %.

5.2. Mandatory financial reserve

In return, the undertaking would have to deposit part of the amount, for example at least 50 %, in a dedicated business bank account. This obligation is essential to ensure that the tax reduction actually builds up cash readily available for resuming activity.

5.3. Use over ten years

As with the current agricultural DEP, the reserve could be used over the following ten financial years. The existing DEP already allows it to be used over ten years to finance business expenses, with the amount added back to profit when used or at the end of the period.

The DERA could finance:

- the replacement of dead or lost fish;
- the repurchase of fry or broodstock;
- the repair of cages, tanks, pumps, barges and buildings;
- the restoration of water, oxygen and electricity networks;
- the purchase of feed after a supply disruption;
- the payment of wages while production is halted;
- the analyses and treatments associated with a health incident;
- the restart of production after a cyclone, pollution or mass mortality.

5.4. Different taxation depending on use

The mechanism could distinguish between two situations: 1. Ordinary use: the amount withdrawn is added back in full to taxable profit. It is then essentially a tax deferral; 2. Use after a recognised disaster: only part would be added back, for example 70 %. The remaining 30 % would be permanently exempt.

This principle currently exists for the agricultural DEP: amounts used in the event of certain climate, health or environmental risks are taxable only up to 70 %, within the current limit of a €50,000 exemption per financial year.

5.5. Safeguards to be provided for

To ensure the legal soundness and the feasibility of the proposal, provision should be made for:

- A main activity of aquaculture production;
- A dedicated bank account recorded among the undertaking's assets;
- A risk prevention plan;
- Insurance, where the risk is insurable at a reasonable cost;

- Certification of the damage by the insurer, an expert or a public authority;
- A prohibition on using the amounts to distribute dividends;
- Immediate add-back in the event of non-compliant use, cessation of activity or transfer outside France;
- The deduction of insurance payouts and public aid, to prevent any overcompensation.

5.6. European State aid framework

A tax advantage reserved for aquaculture undertakings could be classified as State aid. It should therefore be designed in compliance with European rules.

The fisheries and aquaculture de *minimis* scheme has a ceiling of €40,000 of aid per undertaking over three fiscal years, which is limited for financing a genuine resilience reserve.

On the other hand, aid to make good the damage caused directly by a natural disaster may be compatible with European law. The European rules provide, in particular, for:

- Official recognition of the disaster;
- A direct link between the event and the damage;
- An individual assessment;
- Insurance being taken into account;
- A prohibition on exceeding 100 % of the eligible damage.

The main issue therefore concerns the deduction made before the disaster occurs. One of the options under consideration is to structure it mainly as a tax deferral, linked to the building up of blocked savings, with the permanent 30 % tax advantage reserved for undertakings actually affected by a recognised event.

Within this framework, the mechanism would allow aquaculture undertakings subject to corporation tax to deduct a fraction of their profit temporarily, provided that they build up business savings earmarked for risk prevention and management. The amounts would normally be added back when used, but would benefit from a partial exemption when used to resume activity after a recognised climate, health or environmental risk. Presented in this way, the emphasis would be not on a tax concession granted, but on the self-financing of resilience, the preservation of jobs, the continuity of local production and the reduction of the future cost of public compensation.

In the light of the above, the CCRUP recommends that the Member States concerned:

- **Propose tax solutions that allow aquaculture farms to set aside part of their profits for expenditure, as precautionary savings against the risk of losses associated with natural disasters**, as is the case in agriculture. The resulting tax deductions would aim to enable aquaculture farms to build up aquaculture resilience savings that could be drawn on following losses associated with a natural disaster.

The CCRUP therefore recommends that the European Commission:

- **Review the de *minimis* aid ceiling for aquaculture**, seeking to align it with that of other sectors (€300,000.00).

- **Recommend that Member States review the tax rules applicable to aquaculture farms**, allowing them, like agricultural undertakings, to build up provisions as precautionary savings.

- Change the de *minimis* amount from "per undertaking" to "per aquaculture farm".