

1. Programme:

ECJ 2021-2027

2. Title of aid measure:

Investment in TEN-T Maritime Infrastructure – Ad hoc aid to Infrastructure Malta

3. Organisation/entity administering the Measure:

Planning and Priorities Coordination Division (PPCD)

4. Description

This new ad hoc aid measure will provide assistance in the form of a grant and will be implemented under the Cohesion Fund, (CF) specifically under Priority 7 – Investing in TEN-T Infrastructure, Priority 7i – Supporting a multimodal Single European Transport Area by investing in the TEN-T.

The main objective of this ad hoc aid measure is to set up new cargo facilities with the aim to eliminate bottlenecks within the Grand Harbour by reducing vessel waiting time and to improving efficiency within the Port. The ad hoc aid is based on the development of quays within the Grand Harbour of Malta to cater for the increase in berthing demand mainly for cargo vessels. The investment entails the provision of a quay and support facilities to allow for the berthing of Ro-Ro (Roll-on / Roll-off) vessels, general cargo operations, enable future operation of tankers and bunker barges from this location.

This ad hoc aid measure will be implemented in line with the applicable provisions of the General Block Exemption Regulation (GBER).

The eligible activities under this ad hoc aid measure shall refer to investment related to the upgrading of the TEN-T maritime transport infrastructure.

5. The applicable State aid regime (regulations, guidelines, frameworks) in line with which the measure will be implemented

This ad hoc aid measure will be implemented in line with Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, as amended by Commission Regulation (EU) No 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multi-functional recreational infrastructures, and regional operating aid schemes for outermost regions and

amending Regulation (EU)No 702/2014 as regards the calculation of eligible costs, by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments, by Commission Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, and by Commission Regulation (EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Regulation (EU) 2022/2473 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, particularly Article 56b thereof.

The consolidated version of the GBER may be accessed from the following link:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0651-20230701>

6. Target Beneficiary

The intended Beneficiary under this ad hoc aid measure is Infrastructure Malta, which qualifies as a large undertaking.

The targeted beneficiary does not fall under any of the excluded sectors listed in Article 1 of the General Block Exemption Regulation (GBER).

Assistance under this ad hoc aid measure will not be paid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by Malta illegal and incompatible with the internal market.

7. Budget and date of granting of the measure

The overall amount of the ad hoc aid measure is € 46,345,000. The date of granting of the ad hoc aid measure is 5th December 2025.

8. Maximum applicable aid intensity

The amount of State aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs ex ante, on the basis of reasonable projections, or through a claw-back mechanism.

The applicable aid intensity for investments for the construction, replacement or upgrade of port infrastructure is based on the relevant criteria of Article 56b(5)(c) and Article 56b(6) of the General Block Exemption Regulation, as follows:

Article 56b(5)(c): 60 % of the eligible costs where total eligible costs of the project are above EUR 55 million and up to the amount laid down in Article 4(1), point (ee).

Article 56b (6): The aid intensity laid down in point (c) of the first subparagraph of paragraph 5 may be increased by 5 percentage points for investments located in assisted areas fulfilling the conditions of point (c) of Article 107(3) of the Treaty. This condition is satisfied since the beneficiary is established in an assisted area, Luqa and the port is also located in an assisted area, Grand Harbour.

9. Eligible costs and eligible expenses to be covered by the measure

Costs under this ad hoc aid measure shall be deemed eligible unless deemed ineligible in accordance with the National Eligibility Rules for the 2021-2027 Programming Period, available at: https://fondi.eu/wp-content/uploads/2023/09/2021_2027_National-Eligibility-Rules.pdf.

This measure will provide investment aid for maritime ports.

The eligible costs shall be investment costs in tangible and intangible assets, including:

- (a) investments for the construction, replacement or upgrade of port infrastructures.

Aid under this measure shall not be granted for the construction, installation, or upgrade of refuelling infrastructure supplying vessels with fossil-based fuels, such as diesel, natural gas, in gaseous form (compressed natural gas (CNG)) and liquefied form (liquefied natural gas (LNG)), and liquefied petroleum gas (LPG).

Costs relating to non-transport related activities, including industrial production facilities in a port, offices or shops, as well as for port superstructures shall not be eligible.

The eligible costs of this project will not exceed €165 million, and shall be supported by clear specific, and contemporary documentary evidence.

The amount of eligible costs may be calculated in accordance with simplified cost options, since the operation will be partly financed through a Union fund that allows the use of simplified cost options, and the category of costs is eligible according to Article 56b GBER. In such case, the simplified cost options provided in the relevant rules governing the Union fund are applicable.

For the purposes of calculating the aid intensity and eligible costs, all figures used shall be taken before any deduction of tax or other charge. Value added tax charged on eligible costs or expenses that is refundable under the applicable national tax law shall, however, not be taken into account for calculating the aid intensity and eligible costs.

The eligible costs shall be discounted to their value at the moment the aid is granted.

Aid payable in the future, including aid payable in several instalments, shall be discounted to its value at the moment it is granted.

The interest rate to be used for discounting purposes shall be the discount rate applicable at the moment the aid is granted.

10. Conditions to be fulfilled for eligibility of aid under this measure

The eligibility criteria as established by the Monitoring Committee for the ERDF/CF/JTF Programme for project selection are the following:

- Submission of a complete project application as published in the call
- Applicant organisation is an eligible Applicant as outlined in the call
- Applicant is not in an exclusion situation in accordance with Art 136(1) and Art 141(1) of 2018/1046 Financial Regulation, CPR Art 73(2)(i), and the relevant applicable provisions of Article 1 of the GBER
- Applicant organisation has the remit to implement the project within its mandate
- Project to be implemented within the eligible territory or for its direct benefit
- Proof of co-financing (where applicable)
- Selection of a relevant Specific Objective as published in the call
- Selection of at least one output indicator and one result indicator linked to a relevant Specific Objective as published in the call
- Status of operation is either ongoing or not yet started unless otherwise allowed by the specific applicable regulations
- Compliance with Climate Proofing requirements (where relevant)
- Compliance with the DNSH principle

The proposal should pass all the eligibility criteria mentioned above and obtain at least 50% marks allocated to the Selection Criteria during the project selection process.

The Selection Criteria are as follows:

- Capacity of the organisation
- Contribution of the project to the relevant Development Needs
- Potential of the project to contribute to the achievement of the Expected Results
- Contribution towards indicators
- Readiness
- Project Sustainability
- Horizontal principles – Equal opportunities and non-discrimination
- Horizontal principles – Sustainable Development
- Quality of application form

The aid is considered to have an incentive effect since the beneficiary has submitted a written application for the aid prior to the start of works, i.e. before work on the project or activity starts.

In view of this being an ad hoc aid measure to a large undertaking, PPCD shall also verify before granting the aid concerned, that documentation prepared by the beneficiary establishes that the aid will result in one or more of the following:

- a material increase in the scope of the project/activity due to the aid, or
- a material increase in the total amount spent by the beneficiary on the project/activity due to the aid, or
- a material increase in the speed of completion of the project/ activity concerned

Any concession or other entrustment to a third party to construct, upgrade, operate or rent aided port infrastructure shall be assigned on a competitive, transparent, non-discriminatory and unconditional basis.

The aided port infrastructure shall be made available to interested users on an equal and non-discriminatory basis on market terms.

Assistance under this ad hoc aid measure will not be paid in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by Malta illegal and incompatible with the internal market.

Furthermore, it shall be ascertained that the beneficiary is not an undertaking in difficulty as defined in terms of the GBER. However, aid may be granted should the undertaking not have been in difficulty on 31 December 2019 but became an undertaking in difficulty in the period from 1 January 2020 to 31 December 2021.

The Application Form also clearly states that if State Aid rules are breached, even following the conclusion of the project, any grant may have to be recovered, even if already paid.

Moreover, it will be ensured that this measure will not entail, by itself, by the conditions attached to it, or by its financing method, a non-severable violation of European Union law, in particular:

- (a) the granting of aid is not subject to the obligation for the beneficiary to have its headquarters in Malta or to be predominantly established in Malta; However, the requirement to have an establishment or branch in Malta at the moment of payment of the aid, is allowed.
- (b) the granting of aid is not subject to the obligation for the beneficiary to use nationally produced goods or national services.

11. Provisions limiting the cumulation of State aid

In determining whether notification thresholds and maximum aid intensities are respected, the total amount of State aid for the aided activity or project shall be taken into account.

Aid granted under this ad hoc aid measure may be cumulated with:

- a) any other State aid, as long as those measures concern different identifiable eligible costs,
- b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under the GBER.

State aid awarded under this ad hoc aid measure shall not be cumulated with any de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those laid down in the GBER.

12. Obligation on the State aid grantor and the beneficiary to retain records

Records on State aid awarded under this ad hoc aid measure will be maintained by PPCD for 10 years from the date on which the ad hoc aid will be granted, in accordance with Article 12 GBER.

The beneficiary must ensure that all supporting documents related to Project are retained for five years from 31 December of the year in which the final payment to the beneficiary is made. This retention period may be interrupted in the event of legal proceedings or upon a request from the European Commission.

13. Transparency obligations

In line with Article 9(1)(c) of the General Block Exemption Regulation, information regarding this ad hoc aid will be made publicly available on the Commission's transparency award module within six months from the date of award, since the amount of aid exceeds €100,000.