

Resolution approving the term sheet and making the call for applications for 2010 for direct aid for the acquisition of a recreational craft under preferential financing conditions.

The boatbuilding industry is of key importance to the Catalan economy as a whole and, in particular, to its industrial network. It is an industry that has been severely affected by the economic crisis currently affecting our economy.

Therefore, for public interest, social and economic reasons, the government of the Generalitat considers it essential, to protect jobs, provide a boost to both the sector and port activity itself and, at the same time, to decisively respond to the recovery period in light of the current period of economic recession and fall in demand, to take advantage of this aid.

In accordance with Regulation (EC) No 800/2008 of 6 August 2008, declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJEU L 214, of 9 August 2008) and (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid.

In accordance with the Revised Text of the Catalan Public Finances Act, approved by Legislative Decree 3/2002, of 24 December (DOGC [*Catalan Official Journal*] no. 3791A, of 31 December 2002), modified by the Financial Measures Act 12/2004, of 27 December (DOGC no. 4292, of de 31 December 2004), with the General Aid Act 38/2003, of 17 November (BOE [*Spanish Official Journal*] no. 276, of 18 November 2003) and with Royal Decree 887/2006, of 21 July, which approves the Regulations of the General Aid Act 38/2003, of 17 November.

By virtue of the powers granted me in accordance with Article 15 i 5 of the Catalan Ports Act 5/1998, of 17 April, I hereby

RESOLVE

Article 1

The term sheet governing the public call for applications for the direct line of aid for financing 30 percent of the value of the registration tax for recreational craft and vessels, acquired as part of the 48th Barcelona International Boat Show, is approved and attached as an Annex hereto.

Article 2

Call for applications and budgetary allocation

2.1 The call for applications for the year 2010 for the direct aid line for the acquisition of recreational craft under preferential financing conditions.

2.2 The sum initially allocated for this call for applications in the direct aid line for 2010 is 1,000 euros. The funding is from budgetary item 470.0001 of the budget for the body Ports de la Generalitat de Catalunya, for 2010. Should, given the number of applications, the initial allocation be insufficient, this sum may be increased by means of contributions from

the general budget of the Administration of the Generalitat de Catalunya set aside for this aid.

Article 3

Legal regime

These terms are subject to the Revised Text of the Catalan Public Finances Act, approved by Legislative Decree 3/2002, of 24 December, Act 38/2003, of 17 November and the Regulation that implements it, approved by Royal Decree 887/2006, of 21 July as well as, on a supplementary basis, the Public Administrations Legal Regime and Common Administrative Procedures Act 30/1992, of 26 November, and the Administration of the Generalitat de Catalunya Organisation, Procedures and Legal Regime Act 13/1989, of 14 December.

Article 4

Regulations governing the granting of aid

This Resolution is issued in accordance with Regulation (EC) No 800/2008 of 6 August 2008, declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJEU L 214, of 9 August 2008) and (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid.

Article 5

Deadline and place for submission of applications

5.1 The deadline for submitting applications for this aid is 30 November 2010.

5.2 Applications for aid may be submitted directly by those in whose name the registration of the vessel acquired has been made or by the boat company which makes the sale, for and on behalf of the former.

5.3 The place for submitting applications is the headquarters of Ports de la Generalitat (Dr. Roux 59-61, 08017 Barcelona, Spain) or any of the places or means contemplated in Article 38.4 of the Public Administrations Legal Regime and Common Administrative Procedures Act 30/1992, of 26 November.

Article 6

Competent body, resolution to award aid and appeals

The competent body for the processing, resolution to award aid, deadline for conclusion of the procedure, means of notification and appeal system is governed in Term Five.

Final provision

Entry into force

This Resolution shall enter into force on the day after its publication in the Official Journal of the Generalitat de Catalunya.

Barcelona,
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President, Ports of the Generalitat

Annex I

Terms

1 Object

The object of this term sheet is to govern the direct aid line designed to offset 30% of the amount of the registration tax arising on the acquisition of recreational craft taking place from 7 November 2009, start date of the 48th Barcelona International Boat Show, until 9 March 2010.

2 Applicable acquisitions

Aid shall be applied to the registration of recreational craft acquired from 7 November 2009 to 9 March 2010, provided that, in accordance with the provisions of Article 43 of Act 22/2009, of 18 December, the tax domicile of the acquiring party in whose name the first definitive registration of the vessels is made falls within the Autonomous Community of Catalonia. The aid shall consist of a sum equivalent to 30 percent of the amount of the registration tax actually paid.

For the purposes of the preceding paragraph, "acquisitions of pleasure craft" means that both the associated sales agreement and all other documents that, whilst not actually involving acquisition of title thereover, are instrumental therefor, are signed between 7 November 2009 and 9 March 2010. To this end, it is deemed that orders for the building of the vessel meet these requirements, irrespective of whether delivery and registration are subsequent to this date.

In all cases, to benefit from the aid, registration must take place before the date upon which the term for submitting the application expires, i.e. 30 November 2010.

3 Beneficiaries

3.1 Those individuals and legal entities with a tax domicile in the territory of the Autonomous Community of Catalonia in whose name the first definitive registration of the vessel is made may benefit from this aid.

3.2 Generally, beneficiaries, be they individuals or legal entities, must be up to date with the tax liabilities before the Spanish State and the Generalitat de Catalunya, as well as with their social security liabilities. They must also comply with the provisions of Article 92.2.i) of Legislative Decree 3/2002, of 24 December, which approves the Revised Text of the Catalan Public Finances Act.

3.3 Additionally, legal entities must meet the following requirements:

- a) Compliance with the provisions of Articles 32.1, 32.3 and 36.4 of the Language Policy Act 1/1998, of 7 January.
- b) Not having received a penalty as the result of a final ruling, for committing a serious violation in the field of employment integration of the handicapped or a very serious violation in those of labour relations or health and safety at work, in accordance with the Revised Text of the Social Order Violations and Penalties Act, approved by Royal Legislative Decree 5/2000, of 4 August.
- c) Those enterprises subject to a pending recovery order following a prior decision by the European Commission that has declared aid illegal and incompatible with the common market shall not be considered as beneficiaries.
- d) Those enterprises considered as being “undertakings in difficulty” shall not be considered as beneficiaries. For these purposes, an SME shall be deemed “in difficulty” if it meets the conditions set forth in Article 1, Section 7 of Regulation (EC) No 800/2008 of 6 August 2008, declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJEU L 214, of 9 August 2008) and a large enterprise is in difficulty if it meets the definition included in Point 2.1 on the community directive on state aid for rescuing and restructuring firms in difficulty (OJEU C 244, of 1 October 2004).

According to the above regulations, an undertaking is in difficulty in the following circumstances:

In the case of a limited liability company, where more than half of its registered capital has disappeared and more than one quarter of that capital has been lost over the preceding 12 months.

In the case of a company where at least some members have unlimited liability for the debt of the company, where more than half of its capital as shown in the company accounts has disappeared and more than one quarter of that capital has been lost over the preceding 12 months.

In the case of all kinds of undertaking, if they meet the conditions established in national law for undergoing bankruptcy or insolvency proceedings.

- e) Not falling under any of the circumstances contemplated in Article 13 of the General Aid Act 38/2003, of 17 November.
- f) Be up to date with their tax obligations with the Generalitat de Catalunya, the Spanish State Administration and with their social security obligations.

3.4 Demonstration of meeting the requirements contemplated herein shall be carried out in accordance with the regulations applicable to aid within the scope of the Generalitat de Catalunya referred to in the call for applications as the applicable legal regime.

4 Procedure for the granting of the aid

4.1 This aid shall be granted directly, in accordance with the provisions of Article 94 Revised Text of the Catalan Public Finances Act 3/2002, of 24 December and of Articles 22.2.c) and 28.3. of the General Aid Act 38/2003, of 17 November.

5 *Processing and resolution of applications*

5.1 Aid administration:

5.1.1) The application for the aid shall be made directly by the acquiring individual or legal entity in whose name the first definitive registration of the vessel has been made, or by the boat company for and on behalf of the former.

Applications must be made in hard copy format on the approved form, which can be obtained via the Internet from the web site www.portsGeneralitat.org

The following documentation must be included with the application:

a) A sworn declaration of being up to date with their tax obligations with the Generalitat de Catalunya, the Spanish State Administration and with their social security obligations.

b) A sworn declaration that they do not fall under any of the circumstances contemplated in Article 13 of the General Aid Act 38/2003, of 17 November.

c) A sworn declaration as to whether they have applied for or benefitted from any other aid to the same end, indicating the amount of aid and the granting body.

d) Should the applicant be an enterprise with a workforce of more than 25 employees, a sworn declaration explaining the means it employs to prevent and detect cases of sexual harassment and discrimination.

e) A sworn declaration that they comply with Articles 32.1, 32.3 and 36.4 of the Language Policy Act 1/1998, of 7 January.

f) Should the applicant be an enterprise with a workforce of 50 or more employees, a sworn declaration that jobs are given to disabled workers in a minimum percentage of 2% of the relevant workforce.

g) A sworn declaration by the beneficiary, in accordance with Article 92.2.i) of the Revised Text of the Catalan Public Finances Act, approved by Legislative Decree 3/2002, of 24 December, including the following:

1. The remuneration received by senior management personnel of the enterprise receiving the aid. "Senior management personnel" means those carrying out executive or administrative functions.
2. An undertaking to publish said remuneration in the report attached to the accounting statements.
3. An undertaking to maintain, within the framework of the pre-existing labour relationship and during the term of the aid, the aforementioned remunerative structure.
4. Compliance with the rules established in Sections a, b, c and d of Article 90 bis.

h) Bank account information.

The sworn declarations stipulated in Sections a) to g) are included in the approved application form. Therefore, if this form is properly completed and signed by the applicant, there is no need to include them separately.

The documentation to be submitted and validated shall be, in addition to that arising from the requirements of a general nature set forth in Term 3 above, the following:

- a) Acquisition document or equivalent, under the terms established in Term 2.
- b) Invoice supporting payment for the vessel.
- c) Document supporting depositing of the registration tax paid.

Signature and submission of the application implies full acceptance of these terms and implicitly authorises the managing body to verify, on an *ex-officio* basis, compliance with tax obligations with the Generalitat de Catalunya, the Spanish State Administration and with social security obligations, unless said authorisation is expressly denied. In the case of denial of authorisation, the applicant must submit, together with the application, positive certification issued by the Catalan Tax Agency, the Spanish State Tax Administration Agency and the Spanish Social Security Treasury-General of being up-to-date with tax and social security obligations.

5.2 Processing of the awarding of the aid is the responsibility of Ports of the Generalitat .

It is the responsibility of the Boat Show-Fira de Barcelona to validate the documentation submitted and, after accrediting compliance with stipulated requirements, it shall validate it and forward it, together with the supporting documentation stipulated herein, to the body Ports de la Generalitat so that it may make the relevant decision on granting the aid.

5.2.1 After receiving the documentation set forth in the preceding section, validated by the Barcelona Boat Show-Fira de Barcelona, the body Ports de la Generalitat shall proceed to review the forwarded documentation and, if correct, the competent body shall issue a ruling on granting the aid, which shall be notified individually to the beneficiary by registered delivery mail, indicating whether it puts an end to administrative procedures and the associated system of appeals.

Should the decision be to grant the aid, payment shall be made by means of a bank transfer within sixty business days of receipt.

Should the decision be to deny the aid, the documentation shall be returned to the Boat Show.

6 Causes for revocation and procedure

The aid shall be wholly or partial revoked and, as the case may be, the sums improperly received repaid, in accordance with the provision of Articles 99 and 100 of the Revised Text of the Catalan Public Finances Act, approved by Legislative Decree 3/2002, of 24 December, and Article 37 of the General Aid Act 38/2003, of 17 November.

7 Disclosure

7.1 According to Article 18 of the General Aid Act 38/2003, of 17 November, when aid granted, taken individually, is of an amount equal to or exceeding 3,000 euros, the granting of this aid shall be disclosed by means of publication in the Official Journal of the Generalitat de Catalunya and may also be viewed in the listings made available to the interested parties at the headquarters of Ports de la Generalitat de Catalunya and at the headquarters of the Catalan Ministries of Town and Country Planning and Public Works and of Economy and Finance.

7.2 Should the amount of the aid granted be less than 3,000.00 euros, disclosure shall be made by means of access to the listings that shall be made available to the interested parties at the places mentioned in the preceding section.

7.3 Without prejudice to the provisions of the preceding sections, the granting of the aid shall be disclosed by being displayed on the web sites www.gencat.cat and www.portsGeneralitat.org

8 Notification of aid to the European Commission

The granting of the aid shall be governed by the conditions established by Regulation (EC) No 800/2008 of 6 August 2008, declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJEU L 214, of 9 August 2008).

9 Compatibility with other aid

This funding is compatible with other aid granted by other bodies. Should the undertaking have submitted the same fundable items and investments for other types of aid, the aid contributed by the body Ports de la Generalitat de Catalunya for the funding thereof shall not exceed the intensities established for the specific circumstances of each case in Regulation (EC) No 800/2008 of 6 August 2008, declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJEU L 214, of 9 August 2008).

10 Submission of information

Aid beneficiaries are subject to the obligations to submit information contemplated in Article 92.2.h) of the aforementioned text of the Public Finances Act.

11 Invalidity of aid granted

The causes for nullity and annulling are those established by Article 36 of the General Aid Act 38/2003, of 17 November. The procedures established in said Article shall be followed.

12 Violations and penalties

This aid is subject to the system of violations and penalties established by Chapters I and II of Title IV of the General Aid Act 38/2003, of 17 November and by the provisions of Articles 101 and following of the Revised Text of the Catalan Public Finances Act, approved by Legislative Decree 3/2002, of 24 December, in all aspects that are not contrary thereto.