Temporary defensive mechanism to shipbuilding extended by one year

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The temporary defensive mechanism (‘TDM’) introduced by Council Regulation (CE) No 1177/2002 of 27 June 2002 (1) has already been described in the spring issue of the Competition Policy Newsletter (2). Since then, the TDM, due to expire by the end of March this year, has been prolonged until 31 March 2005.

The TDM allows direct aid up to 6% of contract value before aid for four types of ships: container ships, product tankers, chemical tankers and Liquefied Natural Gas (LNG) carriers. It was introduced after the failure of the Republic of Korea ("Korea") to implement the so-called Agreed Minutes relating to world shipbuilding, signed between the EU and Korea in June 2000, which had as their purpose the restoration of fair and transparent competitive conditions. The TDM is designed to offset unfair practices by Korea in the shipbuilding sector.

The Commission proposed the prolongation of the TDM in view of the fact that a solution to the problem of Korean unfair competition in the sector has not so far been reached on bilateral (3) or on WTO level (4).

The proposal was submitted to a consultation procedure and was first endorsed by the European Parliament.

Discussions concerning the proposal in the Council revealed differences in opinion between the Member States on the TDM itself and on its current form. Some questioned the effectiveness of using State aid to deal with unfair practices at the international level and feared that this could be used as a ‘de facto’ reintroduction of operating aid to the shipbuilding sector. Others pleaded for an extension of the material scope of the mechanism to other types of ships and for an increase in the allowable aid intensity.

At the outset, the Commission firmly stressed that the TDM in no way intended to reintroduce the operating aid abolished in the sector in year 2000 and that it continued to be an exceptional measure, limited in scope and time.

The Commission defended its proposal by explaining that any modification of the material scope would require a thorough investigation resulting in strong evidence of injury and of serious prejudice caused to the European shipbuilding industry in a particular ship type and concluded that current market developments gave no indication of the need for such an investigation.

As to the question of allowable aid intensity, the Commission stressed that it adopted, at the end of last year, the new Framework on State aid to shipbuilding (5). The Framework, based on the important work carried out by the ‘LeaderSHIP 2015’ initiative, has created an appropriate environment enabling the shipbuilding industry to improve its competitiveness, in particular by modifying the possibility for the industry to receive innovation aid.


The TDM has so far been implemented in five Member States: Germany, Denmark, the Netherlands, France, and Spain. All of the implementing schemes were approved by the Commission in 2003 and expired on 31 March 2004. The Commission is monitoring the application of the schemes based on information provided by the Member States.

(3) Korea has still not implemented the Agreed Minutes.
(4) A WTO panel is currently hearing the case brought by the EU against Korea with regard to subsidies to Korean shipbuilding. The TDM was extended until the termination of the WTO dispute settlement proceedings, which should be instrumental to a restoration of fair competitive environment.