

## ROADMAP

Title of the initiative: **Review of framework on state aid to shipbuilding**  
Type of initiative (CWP/Catalogue/Comitology): CWP 2011  
Lead DG: DG COMP  
Expected date of adoption of the initiative (month/year): 10/2011  
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### Initial IA screening & planning of further work

#### A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Framework for State aid to the shipbuilding Industry (" the Shipbuilding Framework") forms part of the EU State Aid control rules. It is one of the few sector-specific set of rules and contains specific provisions for certain types of aid which deviate from the rules normally applicable. The Shipbuilding Framework was introduced on 1 January 2004 to take account of the specificities of this industry sector, in particular its global context and the situation of excess-capacities.

A first prolongation of the Shipbuilding Framework for two years came into effect on 28.10.2006 . The Shipbuilding Framework was subsequently reviewed in 2007-2008. Each type of aid foreseen under the framework was analysed internally as to verify its continued necessity and identify possible modifications. A public consultation via the internet was carried out and Member States were addressed directly. After an analysis of the comments received from all interested parties the Commission decided to prolong the existing Framework by three more years – i.e. until 31 December 2011 - and to postpone a further in- depth assessment.

What are the main problems identified?

Sector specific rules for the shipbuilding sector have been justified in view of the specific market features of the industry. Such rules are in some case stricter than normal and in others more lenient.

Since such rules were tailored to a given market situation at a given moment, it is necessary to assess whether the assumptions underlying their design are still valid. Where these have changed, the Commission will analyse whether and how this evolution should be reflected in the applicable provisions.

A key feature of the industry is global competition (in particular from China and Korea) and heavy subsidies granted by certain non-EU countries. Alleged subsidies given by non-EU countries results in claims by many members and representatives of the EU industry that more public subsidies to EU producers need to be allowed to balance competition on the global market. In addition, so far, negotiations at OECD level did not lead to satisfactory progress in terms of achieving a global shipbuilding discipline in this regard.

The requests to counterbalance the effects of global subsidies often collide with the Commission's task to ensure an intra-EU level playing field. Further, the Commission's negotiation position at OECD level strongly depends on the example given by a transparent and reasonable intra-EU State aid discipline.

After a longer period of excellent market conditions, demand has fallen drastically. Indeed, the sudden decrease in maritime transport following the economic crisis, has emphasised the issue of

excess capacities worldwide, resulting in the closure of shipyards and contract cancellations in the EU.

Against this background, the main points of discussion anticipated at this stage generally are:

- Is there a need for continued specific State aid rules for shipbuilding?
- Are there any particular problems of shipbuilding financing that are due to the financial and economic crisis?
- How to encourage aid to be targeted at "greener" policies?
- Is there any scope for progress at the international level (OECD)? How could this interfere with EU State aid rules?

As for the existing specific provisions of the Shipbuilding Framework:

- Notion of "Shipbuilding": Does the definition cover all areas of shipbuilding subject to the specific market situation? Indeed some types of ships are currently excluded from the definition.
- Regional aid: The current Shipbuilding Framework does not allow aid to increase capacities and sets lower aid ceilings for modernisation investments. Are the rules as they stand sufficient to support the European Shipbuilding Industry while ensuring fair competition within the EU? Would an amendment to the ceilings be appropriate? How would this have a negative impact on shipyards in non-assisted areas?
- Innovation aid: Are special innovation aid rules still justified? Is the existing innovation aid provision adapted to the market situation? Has experience with cases (so far only one notification) brought any clarification on the appropriateness of the rules? Does the Framework provision reflect an adequate level of incentive effect? What was the experience with the new R&D&I Framework? Has the situation changed in such a way as to allow an application of the general R&D&I rules to the Shipbuilding industry?
- Closure aid: In view of the current economic situation, are the existing closure aid rules adequate?
- Rescue and Restructuring aid: Could there be any merits to apply the prohibition of R&R aid (as it exists for the steel industry) also in the shipbuilding sector to allow for a more "natural" capacity reduction in the European market?

Who is affected?

- 1) Shipbuilders throughout the EU;
- 2) Potentially their suppliers (e.g. steel industry) and subcontractors;
- 3) R&D&I bodies carrying out activities in the field of shipbuilding;
- 4) Member States and regions
- 5) Shipping companies
- 6) ship owners
- 7) Employees of the shipbuilding industry and its suppliers and subcontractors
- 8) Shipbuilders in third countries;

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

(i) Yes, the establishment of compatibility rules for state aid falls under the exclusive competence of the European Commission.

(ii) As indicated above, state control falls under the primary competence of the Commission. In addition, in view of the strong competitive pressure, Member States could be tempted to engage in subsidy races and beggar-thy-neighbours policies without a supra-national control instance.

(iii) As indicated above, control falls under the primary competence of the Commission which as an independent body can ensure equal treatment for the assessment of aid given by Member States.

## **B. Objectives of EU initiative**

What are the main policy objectives?

The main policy objective is to ensure that support given to shipbuilding industry, in particular innovation aid and regional aid, does not create distortion of competition that would be contrary to the common interest. As identified in previous exercises, the reduction and/or avoidance of overcapacities is a key issue in this respect.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

No, the control of state aid is a well defined and established policy.

## **C. Options**

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered? (iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

(i) Policy options:

- No action: the Shipbuilding Framework expires and the general rules become applicable;
- Prolongation of the Shipbuilding Framework without changes;
- Amendment to the shipbuilding State aid rules.

(ii) Legislative or soft law instrument

The new rules should ideally again be adopted in the form of a framework for which no formal decision of other institutions is required. The use of soft law is a standard practice in the field of state aid. The relatively limited number of cases each year does not appear to justify the use of a Block exemption regulation as for other type of aid.

3) None of the proposed legislative initiatives would go beyond routine up-date of existing legislation.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The options chosen will certainly have effect on the following policies: industrial policy for the sector (ENTR), maritime policy (MARE, MOVE), environmental issues (ENV) actions under the EU R&D Framework programmes and innovation (DG RTD), regional policy (REGIO) coordination should also be continued as regards the OECD process (DG TRADE)

Explain how the options respect the proportionality principle

1) Policy options: If specific State aid rules for shipbuilding are maintained, whether in its current text or modified, it is proposed to keep the form of a framework, which is soft law because the alternative of a block exemption would appear disproportionate in regard of the limited amount of case notified each year. If it is decided to abolish the specific rules, (minor) modification of existing block exemption regulation as well as other soft law will have to be considered.

2) Legislative or soft-law options : see above.

## **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

In the event of a mere prolongation of the existing Framework we do not currently expect major impact.

In the event, the Framework would be abolished and existing horizontal rules would apply, more lenient rules will apply in the field of regional aid with a possible impact on employment and on geographical relocation of certain shipyards. The abolition of the special rules on innovation may have an impact on competitiveness of the sector since the existing horizontal rules on innovation aid do not address the specific features of the shipbuilding industry.

In the event, of a modification of the existing framework the impacts described in the paragraph above will also have to be considered.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No. State aid control has no impact on EU Budget.

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

On simplification and administrative burden, this will depend whether notification thresholds are revised. With regard to relations with third countries subsidies are also governed by WTO rules.

## **E. Planning of further impact assessment work**

When will the impact assessment work start?

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when?  
(v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

As no impact assessment was carried out in the last review, the present review will rely on knowledge of the key issues identified in the last review exercise 2 years ago.

The review will rely primarily on in-house experience with the application of the Framework; consultations with stakeholders; and use of an external consultant for specific issues if necessary. For example, it is intended to examine the reports from Member States regarding their application of innovation aid schemes in order to assess the amounts of aid granted as innovation aid and whether the provision is sufficiently used justifying its continuity. In this sense, information received in the past review concerning e.g. the coverage of the innovation aid provision (types of ships) and its notification thresholds will have to be revisited as it seemed to be an issue for industry and certain Member States in the past. Other provisions (regional aid, closure aid) were almost not used in the past but it needs to be assessed whether they are justified in the present market context. In general informal consultations with the industry (which have already started) and with other stakeholders are indispensable to assess what provisions of the Framework could pose problems and if modifications are warranted. In the same way an assessment of the number and nature of cases notified under the Framework is also necessary to understand their continued usefulness.

Which stakeholders & experts have been/will be consulted, how and at what stage?

It is envisaged to consult – at an early stage of the exercise - the EU Shipbuilding Association (CESA) the EU equipment manufacturers association, social partners, and the Member States. Meetings with the single stakeholders are likely to take place to further understand the factual context and the reasons for the comments submitted. A further "testing" of a draft text could be envisaged if appropriate.

