
STATE AID REFORM CONSULTATION

1. CESA welcomes the State aid action plan of the European Commission (EC). Competition policy in general and state aid discipline in particular have made important contributions to the European integration. The level playing field in the single market has considerably progressed over the passed years with positive effects for the competitiveness of the European industry.
2. A strict state aid discipline has many important advantages; in practice it is necessary and it is based on a solid theory fundament. However, theory alone is not able to reflect the complexity of society and industry. It is, therefore, vital that clear rules are complemented by clear goals. In the end, EU policy should support European prosperity.
3. EC state aid decisions often concern large amounts of money and consequently have decisive impact on the company concerned. Accordingly, public attention is usually very high and decisions are closely followed by the relevant market. Even the opening of procedures can have substantial commercial impact, e.g. with financing institutions becoming more reluctant to engage. At delicate moments, this can have crucial impact. Consequently, even the opening of a formal procedure requires careful consideration of the impact.
4. Apart from positive results, the past state aid control in the EU has also shown some substantial weaknesses and draw-backs. There has been a regularly voiced concern that state aid control applies the rules too legalistic, exposing a rather theoretic approach to real-life challenges, and a much too strong focus exclusively on the internal market.
5. There is particular concern that the EC, so far, is not taking global competition sufficiently into consideration. Government interventions in certain non-EU countries are, unfortunately, frequently witnessed in the global shipbuilding industry. However, global trade rules are difficult to apply in shipbuilding. Recent WTO cases have shown an enormous difference as to the scrutiny related to state aid discipline on EU versus WTO level. In a number of cases, European yards compete for individual contracts only against non-EU competitors, which are not subject to the same or similar strict competition rules. This leads to the absurd situation that European buyers can benefit from state aid, which is prohibited under the EU shipbuilding framework, only under the condition that the vessel is produced outside the EU.
6. CESA wishes to underline that it does not advocate a return to the state aid systems of the past. Neither does it advocate tolerance concerning distortions within the internal market. However, we believe that Europe cannot afford a system which factually protects market distortions practised by non-EU competitors.
7. Global market considerations should be applied in particular with regard to restructuring aids and eventually capacity restrictions. Such restrictions should not hamper international competition in market segments with no further EU player.

8. Europe cannot afford situations as witnessed in the past, where certain state aid decisions, which later on could not be sustained in the Court, have cost EU companies tens of million euros.
9. DG Competition should apply, in all cases, a thorough impact analysis. CESA is prepared to play a constructive role in expressing the consolidated view of the European shipbuilding sector. The positive experience of the recent years in this context should encourage us to further strengthen the cooperation between DG Competition and CESA.
10. The shipbuilding sector is still governed by a specific framework (2003/C317). The action plan explicitly mentions that the Commission will have to decide if this will need to be continued. The current sector framework entered into force on 1.1.2004. It incorporated considerations of the Community sector policy for the European shipbuilding industry, Leadership 2015 adopted by the EC in 2003 [COM (2003) 717]. LeaderSHIP 2015 had concluded that the creation of shipbuilding knowledge is regularly integrated in prototype development, which was not sufficiently supported by the Community Regulation at that time because of sector specificities, which distinct shipbuilding from other manufacturing industries in this respect. It concluded further that shipbuilding should, in substance, enjoy the same conditions as other industries that engage in similar research, development and innovation activities. The in this context recommended new definitions, notably regarding innovation aid, have been adopted with the above mentioned framework and it is essential that any change to the provisions are in line with the agreed principles.
11. The framework for state aid to shipbuilding confirms basically the horizontally applicable rules and provides specific conditions only for a limited number of aid forms, i.e. innovation, development assistance and export financing, of which the latter two are based on OECD agreements.
12. Both the internationally applicable provisions as well as specific provisions regarding innovation support the LeaderSHIP 2015 policy and should therefore continue to apply. Whether this would require the continuation of a sector specific framework or whether other solutions are feasible, such as introducing sector specific provisions in a general framework on innovation aid, remains to be reviewed.