European Commission

Maritime State aid guidelines and Dredging

Henrik Mørch, Acting Director for Transport, Post & Other Services, 17 November 2015

ANNUAL MEETING OF EUDA

Why Maritime state aid guidelines?

There is **free access to international shipping operations** and maritime auxiliary services in the world.

Flags of convenience, with lower environment and social standards continue to gain in importance. Third-country jurisdictions where taxes are friendlier and crews are cheaper keep attracting ship-management activities.

Global competition is distorted by a **favourable fiscal climate** in certain third countries.

This leads to **necessity of comparable advantages in the EU**.

European Commission

Maritime state aid guidelines – key features

- The Maritime guidelines is the only document of its kind in the Commission's State aid "arsenal": no other guidelines provide for possibility to address (unfair) competition from third countries.

- Most important state aid measures allowed by the Guidelines:

  - Tonnage Tax : taxation based on ship tonnage rather than profits
  - Reduced rates of social protection contributions and of income tax for EU seafarers.

Maritime state aid guidelines – dredging

Under the Guidelines, 'dredging' activities as such are not eligible to benefit from aid.

However, **favourable fiscal arrangements may be applied**

-with respect **to dredgers which spend at least 50%** of their operational **time in maritime transport**

-**and only in respect of these maritime transport activities**. Separate accounting for maritime transport activities is required

Dredgers which operate only in ports are excluded

Eligible dredgers are only those registered in a Member State

Danish Case C 22/2007 provides generous reading of the Guidelines

Only the following activities of dredgers are not eligible for state aid (do not constitute maritime transport): dredging and sailing while dredging.

This means that all the rest can be covered by fiscal advantages: sailing between the port and the extraction site; sailing between different places of extraction; sailing between the place of extraction and the place where the extracted materials are to be unloaded; unloading of extracted material; sailing between the place of unloading and the port.

Review and stakeholder consultation in 2012

- **Conclusions of the public consultation**
  - ✓ Guidelines are still effective. As evidence shows, there is no successful EU maritime economy without tonnage tax replacing corporate income tax. 19 of the 23 EU coastal Member States have tonnage tax schemes.
  - ✓ Objectives and main principles remain valid

Also EuDA, while deploring certain limitations of the Guidelines, underlined that its key concern is that the Guidelines are kept.

No imminent revision in view

The 2004 Guidelines are not limited in time, they only had to be reviewed in 7 years' time but not necessarily revised.

In 2013, following the results of the public consultation, Commissioner Almunia decided to leave the Maritime guidelines as they are.

Since 2013, market developments were not such for the new Commissioner, Ms Vestager, to change the approach.

Back-door revision of the maritime guidelines through pending State aid cases?

Is it true? Not really.

The key issues in our pending cases concern matters clearly spelled out in the Guidelines, in particular:

- -tax treatment of shareholders of shipping companies treatment (explicit text in the Guidelines)
- -flag-link rule (explicit text in the Guidelines)
- -ship lessors, maritime cluster intermediaries, including insurance intermediaries (scope of the Guidelines is clearly limited to maritime transport which has a NACE code different from that applicable to ship leasing or insurance intermediation)

Are the Guidelines good enough for dredgers?

While we note the overall satisfaction of EuDA that the Guidelines are kept, the following drawbacks of the present Guidelines have been identified by EuDA:

-the Maritime guidelines do not cover the entire dredging "cycle". In recent years the Commission took a more accommodating stance on vessels like cable-layers and pipeline-layers, directly based on the Treaty.

- the Maritime guidelines effectively excludes from their scope cutter suction dredgers (CDS) because the material they dredge is not transported to its destination by the dredger itself.

-**Unconditional EEA flag-link requirement** applicable to dredging and not to other maritime business segments with similar characteristics.

European Commission

Addressing limitations of Maritime guidelines: way forward for dredging community

First, **any initiative would have to be backed by** an important maritime Member State or group of **Member States**. There should be a wish of MS to give more aid/under less strict conditions.

Second, it will have **to be seen if solutions could be found within the present legal setting**.

Third, **limited revision of the Guidelines at some point in time cannot be completely ruled out**.

Thank you for attention!