



EUROPEAN COMMISSION
Competition DG
Directorate F

Brussels, 09/07/2020
COMP/F3
Ares (2020)4215798

CLECAT
Rue du Commerce 77
1040 Brussels
Belgium

Ms Nicolette van der Jagt
Email: nicolettevdjagt@clecat.org

Subject: Your letter of 15 June 2020

Dear Ms van der Jagt,

Thank you for your letter of 15 June 2020 to Commissioner Vestager regarding the tax treatment of cargo handling services. The Cabinet of Commissioner Vestager has asked me to reply to you.

You argue in your letter that vertically integrated shipping companies can benefit from beneficial tax treatment for port handling services, whereas freight forwards and logistics service providers cannot, a situation that in your view causes distortions of competition.

You consider that the Maritime Guidelines¹ should be amended to avoid such market distortions. You request in particular that ancillary services which are also offered by other parties in the maritime logistics supply chain be excluded from the scope of eligibility to tonnage tax and that the Decisions including those provisions are amended accordingly. In this context, you specifically referred to the Decision adopted on 11 June 2020 regarding the Italian International Registry Scheme (SA.48260).

¹ Commission communication C(2004) 43 – Community Guidelines on State aid to maritime transport (2004/C13/03).

Please specify the name of the case and the case number in all correspondence.

In our meeting of 26 June, we notably discussed the issue of the beneficial tax treatment of certain port handling services. In the below I set out our position more elaborately.

Ancillary activities are activities that are commonly provided in the course of maritime transport but which are not as such transport of goods and persons by sea. A typical example would be the sale of goods (e.g. food and drinks) on passenger ships. Ancillary activities can be compatible under the Maritime Guidelines, which state that:

“the incentive for expatriation of management and ancillary activities would continue if the shipowner obtained a significant financial benefit from maintaining different establishments and accounting separately for Community flag earnings and other earnings.”

The categorisation of services as ancillary depends on a case-by-case assessment and varies on the basis of the context of the activities, the companies and the Member State concerned. If in your view undue distortions of competition have been caused in particular cases by the inclusion of certain activities as ancillary to maritime transport, such as certain port services, I would invite you to formally inform DG Competition of the specific breach or breaches concerned by lodging a State aid complaint. DG Competition would then better understand which services in which ports may be affected by this possible distortion of competition, and could then assess the matter in more detail.

As regards the decision in case SA.48260, please note that this Scheme has existed since 1998. In the recently adopted Decision, Italy committed to specifying which activities it considered as ancillary, and it restricted eligibility for ancillary activities to activities not exceeding 50% of the total gross eligible revenues from the operation of a given vessel. Both of these changes result in a stricter application of the Maritime Guidelines

As regards, lastly, a review of the Maritime Guidelines: following the responses to its public consultation of 2012, both from the private sector and from the Member States, DG Competition considered at the time that the Maritime Guidelines were still fit for purpose and did not need updating. While there is no specific plan for this at the moment, a new consultation may however, for example in response to significant market developments or indications of possible competition distortions, be considered again in the future.

Yours faithfully,

e-signed
Henrik MØRCH
Director