

**EUROPEAN COMMUNITIES – AID FOR COMMERCIAL VESSELS**

Request for Consultations by Korea

The following communication, dated 13 February 2004, from the delegation of Korea to the delegation of European Commission and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

The Republic of Korea ("Korea") respectfully requests consultations with the European Communities ("EC") and with the EC Member States pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), Article XXIII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") and Articles 4, 7 and 30 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement") with regard to measures affecting trade in commercial vessels, as elaborated below.

This follows an earlier request for consultations filed by Korea on 3 September 2003 under the same provisions and concerning also measures affecting trade in commercial vessels. Consultations were held on 9 October and 14 November 2003. The consultations held between Korea and the EC related to various EC and Member State measures in relation, *inter alia* to the following:

- i. The provisions of EC Regulation 1177/2002 ("TDM Regulation") and EC Regulation 1540/98 as such, as well as the EC Member States' implementing provisions as such. The above measures provide for subsidies in favour of commercial vessels, whether directly to the shipbuilders or indirect aid, including operating aid, restructuring aid, insolvency and closure aid, aid for regional or other investment, research and development aid and aid for environmental protection;
- ii. The EC and its Member States have in particular instances, through federal, regional or local authorities and government-owned or government-controlled financial institutions, provided subsidies in direct or indirect support of commercial vessels built in the EC particularly but not exclusively in the form of (a) operating aid granted on a contractual basis in forms such as grants, export credits, guarantees or tax breaks, (b) restructuring aid, (c) regional or other investment aid, (d) research and development aid, (e) environmental protection aid and (f) insolvency and closure aid.

In the absence of a resolution of the dispute through consultations, on 5 February 2004, Korea requested the establishment of a panel with respect to the TDM Regulation and its inconsistency with certain provisions of the GATT 1994, the SCM Agreement and the DSU. Korea wishes to proceed with consultations with the EC regarding other aspects of the TDM and other measures which were the subject of its September 3<sup>rd</sup> request along with additional measures recently adopted by the EC. As

a result, Korea submits this new request for consultations under the provisions referred to hereinabove.

**I. The measures concerned**

Korea considers that the following EC and Member State measures establish subsidies that are inconsistent with the obligations of the EC and its Member States under the SCM Agreement. These measures include, among others:

- i. The provisions of the TDM Regulation, including as extended to cover LNGs by Notice 2003/C 148/10 published on 25 June 2003 (currently proposed to be extended until 31 March 2005 pursuant to European Commission proposal COM(2004)26 final of 21 January 2004). This measure provides for the granting of direct aid in support of contracts for the building of container ships, product tankers, chemical tankers as well as LNG carriers.
- ii. The provisions of EC Regulation 1540/98 as such, as well as the EC Member States' implementing provisions as such, to the extent that aid is still being disbursed under these provisions. The above measures provide for subsidies in favour of commercial vessels, whether directly to the shipbuilders or indirect aid, including operating aid, restructuring aid, insolvency and closure aid, aid for regional or other investment, research and development aid and aid for environmental protection.
- iii. Based on EC Regulation 1540/98, the EC and Member States have in particular instances, through federal, regional or local authorities and government-owned or government-controlled financial institutions, provided subsidies in direct or indirect support of commercial vessels built in the EC particularly but not exclusively in the form of (a) operating aid granted on a contractual basis in forms such as grants, export credits, guarantees or tax breaks, (b) restructuring aid, (c) regional or other investment aid, (d) research and development aid, (e) environmental protection aid and (f) insolvency and closure aid.
- iv. The provisions of the Framework on State Aid to Shipbuilding (Document No 2003/C 317/06 as well as the EC Member States' implementing provisions as such and any individual granting of aid thereunder inasmuch as they provide aid for
  - a. research, development and innovation in existing shipbuilding, ship repair or ship conversion yards for the industrial application of innovative products and processes;
  - b. closure aid;
  - c. employment aid;
  - d. export credits;
  - e. development aid and
  - f. regional aid.
- v. The decision by the Spanish Council of Ministers of 6 February 2004 in application of the above Framework to:

- allow the Spanish Export Credit Agency (CESCE) to provide State insurance on commercial risks arising from breaches of reimbursement obligations as regards loans granted to OECD shipbuilders for the construction of new ships;
  - the facilitation by the Official Credit Institute (ICO) of the adoption of measures allowing its participation in financial operations related to shipbuilding contracts under conditions equivalent to those of other financial agencies within the EU, in collaboration with the private sector, on the one hand, and to establishment a specific credit line to finance shipbuilding operations for an amount of EURO 300 million on the other hand;
  - the support by the Ministry of Science and Technology of R&D activities in shipbuilding sector for an amount of up to EURO 215 million, as direct aid, and up to EUR 200 million in loans through the National Plan for Scientific Research, Development and Technological Innovation and through the Restructuring fund for the period 2004-2007.
- vi. The extension by authorities and financial institutions in the EC Member States, inter alia, in Finland, France, Germany, Italy and The Netherlands of financing and guarantees for the building of commercial vessels subject to a minimum domestic content.
- vii. The guarantee by Germany of all obligations of the Kreditanstalt für Wiederaufbau ("KfW" hereinafter) pursuant to Paragraph 1a of the Law on the KfW of 5 November 1948 as last amended by the Law dated 10 December 2003 which also provides a transition period until January 1<sup>st</sup>, 2008 at the latest for the commercial activities other than promotional activities listed in Paragraph 2(1) to be carried out by an independent legal entity. These activities are carried out by a separate division called "IPEX" since January 1<sup>st</sup>, 2004 but the Law on the KfW still provides the State guarantee for the commitments of KfW as a whole.
- viii. The provision in Germany of public fallback guarantees with respect to credits granted for the financing of ships built in German yards in the five coastal Länder (Niedersachsen, Bremen, Hamburg, Schleswig-Holstein and Mecklenburg-Vorpommern) with differing premia based on six risk categories but seemingly without considering market interest rates for such premia.
- ix. By way of example only, specific reference is made to the following:
- a. the granting by authorities and financial institutions in France, Sweden, Denmark, Finland, Germany, Italy, The Netherlands, Portugal, Spain and the UK of subsidies to beneficiary domestic yards on a vessel-specific and product-related basis;
  - b. export guarantees scheduled to be granted by the Finnish export guarantee institute, Finnvera in the form of post- and pre-delivery guarantees;
  - c. the guarantee by the Italian Shipbuilding Guarantee Fund for the recovery of loans for the construction and conversion of ships, granted by banks to Italian and foreign shipowners, for works carried out in Italian shipyards;

- d. the extension by Danish Ship Finance of fixed low-interest, long-term loan facilities to shipowners for the building of new ships at Danish yards;
- e. the granting by Spain, through the State holding company, Sociedad Estatal de Participaciones Industriales (SEPI) and Astilleros Espanoles (AESA) – a SEPI subsidiary - of restructuring aid through the establishment of the purchase price for publicly held yards Juliana, Cadiz, Astano, Puerta Real, Sestao, Sevilla sold to military shipbuilding group, Bazan, which later changed its name to IZAR below market price as well as through loans and capital injections by SEPI to the previously publicly-held yards and to IZAR;
- f. the granting by Spain of research and development subsidies to Spanish shipbuilders;
- g. the granting by Spain of loan guarantees to Izar through Spain's industrial holding company;
- h. the granting by Spain through the "tax lease scheme" of subsidies in the form of "tax incentives for renewing merchant fleet" indirectly in support of Spanish shipbuilders;
- i. the granting by France of subsidies to shipbuilding and industrial group Alstom under the mantle of a rescue plan of at least 2.8 bn euros;
- j. the granting by France through a tax lease scheme subsidies for Chantiers de l'Atlantique shipbuilding which also appears to receive subsidies under the TDM;
- k. The granting by France of regional aid subsidies to the Loire Region benefiting shipbuilders among others;
- l. The granting by the EC Commission of research and development aid with the stated goal of enhancing competitiveness of the shipbuilding industry;
- m. The granting by Germany of research and development and investment aid in favour of German shipbuilding.

## **II. Product coverage of the measures**

The subsidies in question were granted directly or indirectly with respect to the production of commercial vessels, including: bulk carriers, container ships, oil tankers, product tankers, chemical tankers, bulk, car and combined carriers as well as general cargo vessels, reefers, LNG/LPG carriers, passenger and RoRo ferries as well as cruise ships, fishing vessels and other non-cargo vessels (including offshore units).

## **III. Beneficiary EC shipbuilding companies**

The EC shipbuilding companies which have directly or indirectly benefited from these subsidies include, but are not limited to, Odense Steel Shipyard, Meyer Werft Shipyard, Kvaerner Masa Yards, the Italian Cantieri T. Mariotti, IZAR, JJ Sietas, Kvaerner Warnow Werft, Aker MTW, Howaldswerke Werft, Lindenau, Chantiers de l'Atlantique, Volharding.

#### IV. Breach of obligations

Korea considers that the EC and Member State measures in question are in breach of the obligations of the EC and the EC Member States under provisions of the SCM Agreement, GATT 1994 and the DSU. In particular, but not necessarily exclusively of:

- Articles 3.1(a), 1 and 2 of the SCM Agreement, because measures such as for example the export guarantees scheduled to be granted by the Finnish export guarantee institute, Finnvera, in the form of post- and pre-delivery guarantees are specific subsidies within the meaning of Articles 1 and 2 of the SCM Agreement and are *de jure* export contingent while other measures are *de facto* export contingent;
- Article 3.1(b), 1 and 2 of the SCM Agreement, because measures providing for the granting of financing or guarantees subject to the use of domestic over imported goods as described Section I.vi above are specific subsidies within the meaning of Articles 1 and 2 of the SCM Agreement and *de jure* or *de facto* contingent on a domestic content;
- Articles, 1, 2, 5(a), (b) and (c), 6.3(a),(b) and (c), 6.4 and 6.5 of the SCM Agreement, because in particular but not exclusively the other subsidies referred to in Sections I(i) to (ix) above are specific subsidies within the meaning of Articles 1 and 2 of the SCM Agreement, cause injury to the domestic industry, nullify or impair benefits accruing directly or indirectly to Korea, and cause or threaten to cause serious prejudice to the interests of Korea.

It is considered that the above-described measures nullify or impair benefits accruing to Korea under the WTO Agreements, within the meaning of Article XXIII:1(a) and (b) of the GATT 1994. The Government of Korea reserves the right to address additional measures and claims under other WTO provisions during the course of the consultations, taking into account in particular that the EC is proposing to extend the period of validity of Regulation 1177/2002, EC Member States may still adopt or implement subsidy schemes pursuant to Regulation 1177/2002 and EC Member States are still in the process of adopting or implementing measures in accordance with the EC Framework on State aid to shipbuilding.

Korea notes that Annex I contains a list of information available at this time. Korea would like to incorporate the information contained in Annex I into this request for consultation by reference.

Korea notes that consultations on a number of the topics were held pursuant to the 3 September 2003 request. A number of inquiries pursuant to those consultations remain outstanding. Korea hopes that those consultations can continue without undue repetition and include the additional items noted above pursuant to this request for consultations. Accordingly, Korea looks forward to receiving the response of the EC to the present request and to setting a mutually convenient date and place to hold consultations.

A copy of this request is being sent to the Chairman of the Dispute Settlement Body and to the Chairman of the Council for Trade in Goods and the Chairman of the Committee on Subsidies and Countervailing Measures.

**Statement of Available Evidence**

**I. Operating aid**

(i) Council Regulation (EC) No 1540/98 of 29 June 1998 establishing new rules on aid to shipbuilding (Official Journal No L 202, 18 July 1998, p. 1).

(ii) For the EC Member State implementing measures of Council Regulation (EC) No 1540/98:

– Denmark

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/71/EEC/Add. 3, 18 December 2001.

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document no G/SCM/N/95/EEC/Add.3, 15 December 2003.

– Finland

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/71/EEC/Add. 4, 18 December 2001.

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Community, Addendum, Document No G/SCM/N/95/EEC/Add.4, 15 December 2003.

– Germany

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/71/EEC/Add. 6, 18 December 2001

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/95/EEC/Add.6, 15 December 2003.

– Italy

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/71/EEC/Add. 9, 18 December 2001.

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/95/EEC/Add.9, 15 December 2003.

– The Netherlands

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/71/EEC/Add. 11, 18 December 2001.

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/95/EEC/Add.11, 15 December 2003.

– Portugal

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/71/EEC/Add. 12, 18 December 2001

– Spain

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/71/EEC/Add. 13, 18 December 2001.

Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/95/EEC/Add.13, 15 December 2003.

– the United Kingdom

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/71/EEC/Add. 15, 18 December 2001.

New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, European Communities, Addendum, Document No G/SCM/N/95/EEC/Add.15, 15 December 2003.

(iii) With regard to extensions of the three-year delivery date for commercial vessels provided for under Council Regulation (EC) No 1540/98 and extending the deadline for the payment of the State aid accordingly:

- Commission Decision of 5 June 2002 concerning aid No N 843/01 regarding Meyer Shipyard (Germany) and Commission approves extension of delivery limit for cruise ship being built at Meyer Shipyard (Germany) – State aid may therefore still be paid, Commission Press Release IP/02/815, 5 June 2002;
- Decision of the European Commission dated 19 June 2002, Document C(2002)2139fin as regards Odense;
- Decision of the European Commission dated 13 November 2002, Document C(2002)3768fin as regards Kvaerner Masa yards;
- Decision on Aid No N 751/02 dated 19 March 2003 (Official Journal No C 108, 7 May 2003, p. 9) as regards Italian yard Cantieri T. Mariotti SpA;
- Commission Decision of 9 July 2003 on State aid which Spain is planning to implement in the form of operating aid for three LNG ships built by IZAR, Official Journal No L252, 4 October 2004, p. 18.

(iv) The EU's Surveys on State Aid and State Aid Scoreboards, i.e.:

- Seventh Survey on State Aid in the European Union in the manufacturing and certain other sectors, Brussels, 30 March 1999, p. 11 and following, p. 20, p. 67 and following;
- Eight Survey on State Aid in the European Union in the manufacturing and certain other sectors, Brussels, 11 April 2000, p. 17, p. 22 and following, p. 94;
- Ninth Survey on State Aid in the European Union in the manufacturing and certain other sectors, Brussels, 18 July 2001, p. 37 and following, p. 94;
- State Aid Scoreboard, Brussels, 18 July 2001, Document COM(2001)412 final, p. 27, 28, 51;
- State Aid Scoreboard, Brussels, 30 April 2001, Document COM(2003)225 final, p. 18;

And

Third report from the Commission to the Council on the situation in World shipbuilding, Brussels, 15 November 2002, Document COM(2000)730 final, p. 21 and following.



- (v) Council Regulation (EC) No 1172/2002 of 27 June 2002 concerning a temporary defensive mechanism to shipbuilding (Official Journal No L 172, 2 July 2002, p. 1) of which the Commission proposes the extension until March 31, 2005 in Proposal for a Council Regulation amending Regulation (EC) No 1177/2002 concerning a temporary defensive mechanism to shipbuilding, January 21, 2004, COM(2004)26 final.
- (vi) For the EC Member State implementing measures of Council Regulation (EC) No 1172/2002:

– Germany:

"Richtlinien des Bundesministerium für Wirtschaft und Arbeit zu befristeten Schutzmassnahmen für den Schiffbau", 24 October 2002.

Case N 744/2002, Commission Decision (2003)788 fin of 19.3.2003.

*Commission authorizes "Temporary Defensive Mechanisms" for the German shipbuilding industry, Commission Press Release IP/03/405, 19.3.2003.*

*Sietas attacks Hamburg government, Lloyd's List, 24 December 2002; German Hamburg approves 4.0 Mln EURO subsidy for Shipyard, German News Digest, 13 November 2002.*

*Subsidy gives Aker and Kvaerner boxship trio boost, Lloyd's List, 12 June 2003; German yards feel pinch as competition bites, Lloyd's List, 15 April 2003.*

*HDW lines up four-ship boxship order, Lloyd's List, 26 June 2003.*

*Lindenau warns of lay-offs ahead, Fairplay Daily News, 27 January 2003.*

– Denmark

*Lov om midlertidig, kontraktbetinget driftsstotte til bygning af visse skibstyper, LOV No 305 dated 30 April 2004.*

Case N 141/2003, Commission Decision of 24.6.2003.

*Financing deal aids Danish shipyards, Lloyd's List, 12 February 2003.*

*Aftale mellem Skibskreditfonden og regeringen endeligt på plads (Agreement between the ship finance fund and government is finally in place), Press Release of Danish government, 7.2.2003.*

– France

*LNG order driven by French politics, TradeWinds, 27 June 2003.*

*SeaFrance car ferry order goes to Chantiers yard, Lloyds List, 26 June 2003.*

*Gaz de France still to make LNG choice, TradeWinds, 26 June 2003.*

*EC rapid response to Alstom, Lloyds, 22 August 2003.*

Application du Règlement N° 1177/2002 du Conseil par la décision d'une commission interministérielle (as referred to by the European Commission in the publication of the approval of the French aid for LNGs).

Case N 232/03, Commission Decision (2003)3234 fin of 17 September 2003.

– The Netherlands

*Subsidy saves shipyard subsidiary and All is well at Volharding*, Fairplay Daily News, 8 November 2002.

*Tijdelijke regeling ordersteun scheepsnieuwbouw, Regeling van de Staatssecretaris van Economische Zaken van 17 juli 2003 No WJZ3040972 with regard to the provisions for affording subsidies to the shipbuilding sector as temporary defensive aid.*

Case N 780/2002, Commission Decision (2002)2019 fin of 9 July 2003 and Case N 339/03, Commission Decision (2003)3378 of 18 September 2003.

– Spain

*PDV picks Izar for tanker trio*, Fairplay Daily News, 25 February 2003.

*Dutch group protests over 'Spanish handout'*, Lloyd's List, 9 December 2002.

*Dutch anger over alleged subsidy*, Fairplay Daily News, 4 December 2002.

*EU/State aid: Spain hopes to give temporary support to its shipyards*, Agence Europe, 19 July 2003, p. 15.

*Third LNG carrier launched at Izar*, Lloyds, 18 August 2003.

Case N 812/02, Commission Decision (2003)4079 fin of 11 November 2003.

Real Decreto 442/1994 of 11 March 1994 as amended by Real Decreto 1274/2003 of 10 October 2003.

(vii) As regards the German State guarantees:

*Mr. Monti and Mr. Clement meet to discuss State guarantees for German shipyards*, Agence Europe, 5.3.2003.

*EC turns sights on German loans*, Fairplay, 24.1.2003.

*German loans under scrutiny*, Lloyd's List, 24.1.2003.

*Mario Monti expresses concern about impact of State guarantees on shipbuilding*, Agence Europe, 24.1.2003.

*Monti hat Subventionsverdacht EU-Kommission erhöht Druck auf Deutsche Werftindustrie*, Handelsblatt, 23.1.2003.

*Commission gives green light for new German ship-financing guarantee schemes, Commission Press Release No IP/03/1740, 16/12/2003.*

*Risky business*, Tradewinds Today, 16 December 2003.

- (viii) Replies from the European Community to the request from the Republic of Korea to the European Community and its Member States pursuant to Article 25.8 of the Agreement on Subsidies and Countervailing Measures.
- (ix) With regard to requirements of domestic content to afford aid:
- Europe – Blohm + Voss Shipyard, Hamburg, the federal government has put forward a war chest of E62m to induce shipowners to build in Germany, Lloyd's List, 10 December 2002;
  - OECD handbook on export credits, Section 2.1.22 regarding Finland, page 7;
  - OECD handbook on export credits, Section 2.1.2 regarding France, at page 7;
  - OECD handbook on export credits, Section 2.1.2.2 regarding Germany, page 9;
  - OECD handbook on export credits, Section 2.1.2.2 regarding Italy, page 6;
  - OECD handbook on export credits, Section 2.1.2.2 regarding The Netherlands, page 6.

## **II. Loan facilities to Danish shipowners**

See in I-(vi) above and Case N 286/2003, Commission Decision of 26.11.2003.

## **III. Guarantee by the Italian Shipbuilding Guarantee Fund**

- (i) *Formal investigation into Italian shipbuilding guarantee scheme, Commission Press Release IP/03/604, 30.4.2003.*
- (ii) State Aid – Italy, Aid C 28/03 (ex N 371/01) – Guarantees for ship financing – Invitation to submit comments pursuant to Article 88(2) of the EC Treaty (2003/C 145/04), Official Journal No C 145, 21 June 2003, p. 48.

## **IV. Spanish tax leasing scheme**

- (i) *Spanish Act 50/1998 on Tax and Administrative Measures and Social Order*, with modifications introduced by Article 3.9 of Act 55/1999 of 29 December 1999, a new supplementary clause (in the form of a regulation) has been introduced to Act 43/1995 on Corporate Tax under the title "*Tax incentives for renewing merchant fleet*".

## **V. Spanish restructuring aid**

- (i) *Commission extends state aid investigation into further restructuring of public shipyards in Spain, Commission Press Release IP/01/1672, 28.11.2001.*

- (ii) State Aid – Spain, C-40/00 (ex NN 61/00) – Further restructuring of Spanish shipbuilding – Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, Document 2000/C 328/03, Official Journal No C 328, 18 November 2000, p. 16; Document 2002/C 21/03, Official Journal No C 21, 24 January 2002, p. 17.
- (iii) Commission by Decision 2000/131/EC of 26 October 1999, Official Journal No L 37, 12 February 2000, p. 22 as upheld in Judgment of 21 March 2002, Case C-36/00, Spain v. Commission, European Court Reports (ECR) 2002 I-3243; Judgment of 26 June 2003, Case C-404/00, Commission v. Spain, not yet published in the ECR.
- (iv) Commission extends state aid investigation into further restructuring of public shipyards in Spain European Commission Press Release, IP/01/1672, 28 November 2001; also European Commission Press Release, IP/00/760, 12 July 2000, Official Journal No C 328, 18 November 2000 and European Commission Press Release, IP/01/1672, 28 November 2001, Official Journal No C 21, 24 January 2002, p. 17.
- (v) Commission takes two decisions on state aid procedures to public shipyards in Spain, European Commission Press Release, IP/03/754, 27 May 2003.
- (vi) State Aid – Spain, Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning document C 38/03 (ex NN 10/03), Official Journal No C 201, 26 August 2003, p 3.
- (vii) State Aid – Spain, Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C40/2000 (ex NN 61/000), Official Journal No C 199, 23 August 2003, and p. 9.

## **VI. Framework on State aid to Shipbuilding**

- (i) *Framework on state aid to shipbuilding* (2003/C 317/06), Official Journal No C 317, 30 December 2003, p. 11.
- (ii) As regards the *Spanish* aid decided upon by the Spanish Council of Ministers, the Note of the Council of Ministers on the meeting held on 6 February 2004, available at <http://www.la-moncloa.es/web/asp/muestraDocImp.asp?Codigo=c0602040>.

## **VII. State guarantee for KfW**

- (i) *Gesetz zur Neustrukturierung der Förderbanken des Bundes (Förderbankenneustrukturierungsgesetz)*, 15 August 2003, Bundesgesetzblatt, 2003, Part I, No 42, 21 August 2003.
- (ii) Law concerning KfW, English translation incorporating the amendments to the law dated 5 November 1948 up to the amendment of 10 December 2003, [www.kfw.de](http://www.kfw.de), visited on 10 December 2003.
- (iii) *Commission informs Germany of its position regarding guarantees to public banks*, Commission Press Release No IP/01/1999, 26 January 2001.
- (iv) *Commission requests Germany to bring State guarantees for public banks into line with EC law*, Commission Press Release No IP/01/665, 8 May 2001.

- (v) *New round in talks on German bank guarantees, Commission Press Release MEMO/01/224, 13 June 2001.*
- (vi) *Press statement after the meeting of Commissioner Monti and State Secretary Koch-Weser on 17.7.2001, Commission Press Release No IP/01/1007, 17 July 2001.*
- (vii) *Common press statement on the understanding on Anstaltslast and Gewährträgerhaftung for special credit institutions, Commission Press Release No IP/02/354, 1 March 2002.*
- (viii) *Commissioner Monti welcomes formal acceptance by Germany of the abolition of State aid to public banks, Commission Press Release No IP/02/643, 26 April 2002.*
- (ix) *Mario Monti welcomes the abolition of State guarantees for German public sector banks, Commission Press Release No IP:03/49, 15 January 2003.*
- (x) *KfW restructures to fit EU framework, Lloyd's List, 17 December 2003.*
- (xi) *Launch of KfW IPEX-Bank, KfW's Export and Project Finance division to become an independent Bank; Statement by Dr. Peter Klaus, Spokesman of the Board of Managing Directors of KfW IPEX-Bank, Member of the Board of Managing Directors of KfW; KfW IPEX-Bank Press Conference, documents available at the KfW IPEX website regarding the press conference for launching IPEX on 8 December 2003, [www.kfw-ipex-bank.com](http://www.kfw-ipex-bank.com) visited on 10 February 2004.*

#### **VIII. Other aid of the kind referred to in I.iii to ix**

- (i) *Commission approves EUR 1,870.9 million assistance package for Loire region (regional aid), Rapid press release, 11 January 2001.*
- (ii) *Commission calls on scientific and industrial communities to apply for EUR 5 billion research funding (research and development aid), Rapid press release, 16 December 2002.*
- (iii) *Authorization for state aid pursuant to Articles 87 and 88 of the EC Treaty, (German research and investment aid to shipbuilding) Official Journal C 277, 14 November 2002, p 2.*
- (iv) *Case N 360/2003, Commission Decision of 01.10.2003 (authorization of R&D aid for Flensburger Schiffbau-Gesellschaft mbH & Co.KG).*
- (v) *Cases N 145/2003, N 146/2003, N 147/2003 and N 148/2003, Commission Decision of 13.05.2003 (authorization of R&D aid for Blohm + Voss GmbH, Aker MTW GmbH, Kvaerner Warnow Werft GmbH and Nordseewerke GmbH).*
- (vi) *Izar breathes more easily, Lloyds, 8 July 2003.*
- (vii) *Spanish Government boosts shipbuilding industry with E500 million lifeline, Lloyds, 1 October 2002.*
- (viii) *Aker Kvaerner thrown lifeline, Lloyd's List, 22 May 2003 and State guarantees Masa-Yards \$2.9bn, Lloyds' List, 22 May 2003.*

**IX. Adverse effects**

- (i) Lost sales cases reported by the Korean shipyards.
  - (ii) Article 2(1) of Council Regulation (EC) No 1177/2002 to the effect that operating aid shall only be granted "*when there has been competition for the contract from a Korean shipyard offering a lower price*", i.e., the aid is granted to prevent the sale of Korean vessel or to cause lost sales for Korean shipyards.
  - (iii) German yards enter 2004 on a high, Lloyds' List, 6 January 2004.
  - (iv) Dutch yards cry out for subsidies, TradeWinds, 5 December 2003.
  - (v) Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on "LeaderSHIP 2015 – Defining the Future of the European Shipbuilding and Repair Industry - Competitiveness through Excellence", COM(2003)717final, 25 November 2003.
-