



State aid for modernizing the Danube fleet - legal framework

GRENDEL 2nd Public consultation on State aid for the modernisation of the Danube Inland Fleet

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DISCLAIMER

"The views expressed are purely those of the speaker and do not represent the official position of the European Commission."

Overview

1. Existence of State aid
2. GBER / Notification
3. Case practice
4. Revision of GBER

Is it State aid?

- (1) Aid granted by a Member State or through State resources
- (2) Confers an advantage to an undertaking
- (3) Selective advantage
- (4) Potential to distort competition
- (5) Effect on trade between Member States

Article 107(1)
TFEU – **all**
criteria must be
met

- In principle, **State aid is prohibited**
- Commission has **sole competence** to approve State aid
- *De minimis* rule



EU funds and State aid

Directly managed funds

- financed by the EU's central budget;
 - managed directly by the Commission or on the basis of a mandate of the Commission by (normally) the EIB/EIF;
 - no margin of discretion for Member States as to the use of funds
- => **No State aid**

e.g. Horizon 2020, Connecting Europe Facility

Shared management funds

Responsibility for the management, control and selection of projects rests entirely with the national authorities => **Application of State aid law**

e.g. The European Regional Development Fund (ERDF), Cohesion Fund

If State aid is present

It can be declared compatible with the internal market by the Commission either:

- 1) by a **decision**, following prior notification of the aid by the Member State
- 2) by **block exemption regulations** laying down detailed compatibility criteria => no need to notify



Investment aid to go beyond EU standards or increase the level of environmental protection in the absence of EU standards (Article 36 GBER)

- EU Regulation for engines in non-road mobile machinery (NRMM) 2016/1628 introduced stage V emission limits for inland waterway vessel engines which came into force on:
 - 01.01.2019 (engines below 300 kW)
 - 01.01.2020 (engines above 300 kW)
- Applies to new inland waterway vessel engines;
- No obligation to replace old vessel engines;
- If a Member State gives aid for retrofitting old engines, it is State aid (but cf. *de minimis*, already approved schemes, GBER, notification).



SA.48804 Prolongation and adaptation of the aid plan for modernisation of the inland waterway fleet 2018-2022 (PAMI)

Articles 25 & 49 GBER (R&D, environmental studies)

(i) fostering innovative solutions

Article 36 GBER (environmental protection)

(ii) reducing pollution, e.g. filter systems for vessels

(iii) waste treatment on board vessels and reducing waste, e.g. systems for stocking waste on board

Articles 38 & 41 GBER (energy efficiency)

(iv) transforming vessels to make them more hydrodynamic, e.g. by reconstructing back parts of vessels so that they use less energy

(v) optimising energy on board, e.g. by installing solar panels



Notification of aid measures

- If notification is necessary, allow time for the Commission's assessment
- For novel measures, consider pre-notification
- Possible legal basis:
 - Modal shift
 - Article 93 of the Treaty
 - Greening
 - Article 107(3)(c) of the Treaty
 - Environmental Guidelines
- If you have questions:
 - e-WIKI
 - contact Unit F2: COMP-F2@ec.europa.eu

Article 93 of the Treaty

1. **Common interest**

- Promoting a shift from road to inland waterway transport
- 2011 White Paper on Transport
- NAIADES action programmes (I and II)

2. **Necessity and incentive effect**

- Beneficiaries would not have carried out the aided activities absent the granting of the aid

3. **Proportionality**

- Aid limited to the minimum necessary
- Presumptions

4. **The distortion of competition must not be contrary to the common interest**

- Addresses a well-defined market failure

SA.48804 PAMI

Notified measures:

(A) Integrating the inland waterways network in the logistic chains

- Adapting vessels so they can attract new traffic
- Building or adapting vessels serving seaports
- Purchase of hardware and software to aid navigation or vessel operation

(B) Supporting renewal of operators in the industry

- Purchase of the first vessel

Aid intensities: 20-50%



Commission's review of GBER: scope and timing

Proposal to extend the GBER to three new areas:

- Financing and investment operations supported by the **InvestEU Fund**
- **RD&I** projects with Seal of Excellence, co-funded projects and Teaming Actions
- **European Territorial Cooperation** projects (also called Interreg)

Timing of GBER review:

- aim to adopt the GBER in time for the next MFF (tentative Q3 2020)



Thank you for your attention !