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State aid: Commission denies delivery date extensions for cruise ship at Italian yard

The European Commission has decided under the EC Treaty state aid rules not to allow an extension of the delivery date for a cruise ship built at the Fincantieri shipyard in Italy. Under the EU's state aid rules, operating aid for shipbuilding was abolished at the end of 2000. Operating aid of up to 9% for shipbuilding contracts signed before that date continued to be allowed for contracts executed within three years. Derogations from this rule can be granted under strict conditions. In October 2004 the Commission authorised such a derogation for four cruise ships built by Fincantieri. However, it has had to refuse an extension for the fifth ship, as it was clear from the signing of the contract in 2000 that the delivery of the ship within the three-year-period was technically not possible. Consequently, no aid can be paid for the fifth ship.

Competition Commissioner Neelie Kroes said: "Operating aid for shipyards has severely distorted the market. It is therefore essential for fair competition that the abolition of operating aid affects all shipyards equally. No shipyard should be allowed to use a derogation from EC Treaty rules to benefit from aid which it has no right to receive".

Contract-related operating aid for shipbuilding was abolished in the EU in December 2000, but could still be paid for contracts signed at the latest by the end of 2000 and executed before the end of 2003. This condition aimed at avoiding artificial "frontloading" of shipbuilding contracts. The Shipbuilding Regulation (Council Regulation 1540/98), which was in force at that time, stipulates that the Commission may grant an extension of the three-year delivery limit when this is found justified e.g. by delays resulting from unexpected disruptions due to unforeseen exceptional circumstances beyond the shipyard's control.

Italy requested the Commission to grant an extension of the delivery limit for five cruise ships built by Fincantieri. The vessels were originally meant to be delivered before the end of 2003. On this basis, Fincantieri was awarded 9% contract-related aid by the Italian authorities, subject to the Commission's approval.

The Commission's preliminary investigation, concluded in October 2004, revealed that exceptional circumstances (the shipowner requested later delivery of the ships due to the terrorist attacks of 11 September 2001) justified an extension of the delivery deadline for four of the ships. The Commission also found that Fincantieri would technically have been able to deliver the four ships by the end of 2003, as originally foreseen.

However, for the fifth ship, the Commission decided to launch a formal investigation, because it had doubts that Fincantieri would actually have the capacity to deliver the ship by the end of 2003 as originally foreseen (together with the four other cruise ships and all other ships in the order book). Based on the information received during the investigation, the Commission's doubts have been confirmed and therefore no aid will be allowed for the fifth ship.