Protection against injurious pricing of vessels. Codification

2014/0280(COD) - 08/06/2016 - Final act

PURPOSE: to codify Council Regulation (EC) n° 385/96 regarding combatting the injurious pricing of vessels.

LEGISLATIVE ACT: Regulation (EU) 2016/1035 of the European Parliament and of the Council on protection against injurious pricing of vessels (codification).

CONTENT: in the interests of clarity and rationality, the Regulation **codifies and repeals Council Regulation (EC) No 385/96,** which has been substantially amended.

The Regulation responds to the need to provide for an effective means of **protection against sales of ships below their normal value**. It transposes into EU law the **Shipbuilding Injurious Pricing Code** ('the IPI Code'), which is mainly based on the 1994 Anti-Dumping Agreement, annexed to the Agreement establishing the World Trade Organisation.

The IPI code is annexed to annexed to the **Shipbuilding Agreement**, concluded on 21 December 1994 following multilateral negotiations conducted under the auspices of the Organisation for Economic Cooperation and Development.

The Regulations sets out the principle that an **injurious pricing charge** may be imposed on the builder of any injuriously priced vessel whose sale to a buyer other than a buyer of the country in which the vessel originates causes injury to Union industry.

The term '**Union industry'** is defined by reference to the capability to build a like vessel.

A vessel is to be considered as being injuriously priced if the export price of the vessel sold is less than a comparable price for a like vessel, in the ordinary course of trade, when sold to a buyer of the exporting country.

The Regulation applies to all self-propelled sea-going vessels of 100 gross tonnes and above, used for transportation of goods or persons or for performance of a specialised service (for example, ice breakers and dredgers) and any tug of 365 kW and above.

The new codified Regulation establishes, inter alia:

- detailed rules on the calculation of the **normal value**. In particular, such value should, where possible, be based on a representative sale of a like vessel in the ordinary course of trade in the exporting country;
- detailed guidance as to the **factors which may be relevant for the determination of whether the injuriously priced sale has caused material injury or is threatening to cause injury**. In demonstrating that the price level of the sale concerned is responsible for injury sustained by the Union industry, attention should be given to prevailing market conditions in the Union;
- the procedural and substantive conditions for **lodging a complaint** against injurious pricing, including the extent to which it should be supported by the Union industry;
- the procedures for the rejection of complaints or the initiation of proceedings;

- **the rules and procedures to be followed during the investigation**, in particular the rules whereby interested parties are to make themselves known, present their views and submit information within specified time limits, if such views and information are to be taken into account; the termination of cases should, irrespective of whether an injurious pricing charge is imposed or not, take place no later than 1 year from the date of initiation or the date of delivery of the vessel, as the case may be; the investigation may be terminated without the imposition of an injurious pricing charge if the sale of the injuriously priced vessel is definitively and unconditionally voided or if an alternative equivalent remedy is accepted;
- rules for the **denial of the right to load and unload** in Union ports to vessels built by shipbuilders subject to countermeasures;
- rules allowing the Commission to carry out **visits** to verify information provided on injurious pricing and injury;
- provision for the treatment of confidential information so that business secrets are not divulged.

ENTRY INTO FORCE: 20.7.2016. The Regulation applies from the date of entry into force of the Shipbuilding Agreement.