



ORGANISATION FOR ECONOMIC
CO-OPERATION AND DEVELOPMENT

Council Working Party on Shipbuilding (WP6)

Workshop on Market Distorting Practices in the Shipbuilding Industry

Setting the Scene

December 2009

This presentation will

- Provide some background on market distorting practices;
 - : largely drawn from the Shipbuilding Agreement negotiations between 20002 and 2005

- Report on the outcome of the Inventory of Support Measures compiled from inputs provided by both WP6 members and some non-OECD economies

What does market distortion mean?

During the SBA negotiations there were several proposals none fully acceptable to all negotiators:

- Any outside influence will distort the market.
- Government subsidies generally distort the market.
- For a market to be distorted there needed to be some associated adverse effect.
- The terms “market distortion”, “trade distortion” and “adverse effect” (as defined in Article V of the ASCM) are synonymous, so if one exists, then the others also exist.

What does the WTO say about market distortion?

- The WTO definition of distortion is as follows:

Distortion

“When prices and **production** are higher than levels that would normally exist in a competitive market.

Types of Factors that could distort the market

- During the SBA negotiations, three types of factors were identified:
 - Government subsidies
 - Government non-subsidy support measures
 - Market practices

Establishing whether subsidies distort the market

The summary of the Chairman of the informal Meeting of Experts on subsidies held in May 2004 offers some guidance:

“...it is impossible to establish *ex ante* whether a subsidy is market distorting or not, as this can only be done *ex post*.”

Treatment of subsidies in the SB Agreement

At their pause, negotiations were headed toward treatment of subsidies that followed the WTO ASCM model:

- **Prohibited subsidies** (those considered to potentially be the most market distorting).
- **Actionable subsidies** (those that could cause adverse effects).
- **Non-actionable subsidies** (those where it was agreed that potential risks to markets were tolerable - eg R&D)

Subsidies for possible prohibition

These considered to have greatest potential for market distortion. Draft SBA text contains the following:

- . production and operational subsidies
- . subsidies for investment in new facilities
- . subsidies for modernisation/conversion/upgrading
- . Subsidies to assist in the purchase/lease of domestically built ships
- . *Ad valorem* subsidisation exceeding x% of turnover
- . Non-actionable subsidies when terms and conditions of that article not met

Non-subsidy support measures

After significant process of elimination, these measures remained in draft text as being “potentially” market distorting:

- . Partial or total nationalisation of the industry;
- . Cargo reservation directly linked to domestic shipbuilding and ship repair requirements;
- . Domestic build, repair or content requirements that discriminate in favour of domestic industry
- . Any government regulation, practice or other measure aimed at ship owners and other third parties intended to facilitate purchase of domestically produced vessels

Market practices

- This element intended to cover pricing and other market practices that could distort the shipbuilding market.
- The inclusion of this element was still under discussion when negotiations were paused, therefore the negotiations cannot offer any guidance on this.
- Document C/WP6(2009)17 simply lists arguments for and against the inclusion of this element in the Shipbuilding Agreement.

Inventory Outcome

- 20 responses
 - plus one from the EC on general programs
- 17/20 reported support measures
- 3/20 reported no support measures
- 51 separate support measures reported

Frequency of measures reported

- . 16 - Type K - R&D support
- . 13 - Type E - Export/Home Credits
- . 8 - Type A - Direct transfers by governments
- . 6 - Type C - Loans on favourable terms
- . 3 - Type H - Government revenue foregone
- . 2 - Type G - Government acquiring interest in yards
- . 1 - Type B - Indirect transfers by governments
- . 1 - Type D - Guarantees on favourable terms
- . 1 - Type F - Government takes over debts

Magnitude of measures

Type E - Export/Home Credits

- 2007 USD 9.5 billion
- 2008 USD 12.9 billion
- 2009 USD 7.7 billion

Type C – Loans on favourable terms

- 2007 USD 155.6 million
- 2008 USD 139.7 million
- 2009 USD 445.9 million

Magnitude of measures

Remaining Types of measures

- 2007 USD 215.5 million
- 2008 USD 384.4 million
- 2009 USD 164.5 million

What next?

- Issues paper identifies a number of possible items for discussion:
 - extent/types of government support measures
 - impacts on markets and industries
 - are any subsidies that cause particular concern about possible distortions?
 - what about non-subsidy support measures and market practices?
 - are there other factors/measures not covered by Inventory?
 - can transparency be improved through better Inventory, perhaps one that is regularly updated?