Institut Français de la Mer
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France baffled at commission's scrutiny of tax-lease scheme
Programme comparable to other states

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The French shipping sector has reacted with consternation to the news that the new European Commission has decided to open an in-depth investigation into France's tax-lease ship finance scheme.

Breaking the news yesterday, the Institut Français de la Mer, which groups all France's main maritime professions, claimed that the commission's decision amounted to inflicting on the French flag "a regrettable and iniquitous distortion of competition".

Chairman Francis Vallat said that investment in new ships for operation under French flag had already largely dried up in recent months as a result of uncertainty about the future of the tax-lease scheme after it had become known that the commission was gathering information about it.

It is understood, moreover, that the French finance ministry has already begun requiring owners to sign an undertaking to refund the tax benefits it accords under the scheme in the event that the commission rules that they represent unlawful state aid.

French owners are now wondering if the scheme will survive the investigation whatever its outcome. Industry sources said that the scheme risked being effectively inoperative for 18 months at least — even if the commission completed its investigation without delays — and that owners would inevitably turn to other forms of financing during this time.

The commission, which announced its intention to open a formal investigation into the scheme on December 15, said that it wanted to find out whether the French scheme for ëfiscal economic interest groupings was compatible with European Community rules on state aid.

It outlined the workings of the French scheme, which provides for the constitution of such groupings, generally composed of financial institutions, which purchase ships on behalf of shipowners and then lease them back to the owners for a period of at least eight years.

Once this period is over, owners can buy the ships. Before then members of the EIG can write off the deficits incurred on their investment against taxable profits generated by their other activities.

"The commission's view at this stage is that the advantage conferred on members of EIGs (the companies which purchased the asset) and end-users (the lessees) by this exception mechanism might constitute state aid incompatible with the Community rules in force and might therefore give beneficiary companies an unfair advantage over their competitors in other member states," the commission said.

The IFM said yesterday, however, that it was "astonished and worried" by the commission's decision. It argued that the commission was well aware that the scheme, which came into operation in 1998, was less favourable than the one which had preceded it and that it had not created any distortion of competition in so far as it had only served to maintain the number of ships under French flag rather than increase it.

It added that the scheme was open to all European Union shipping companies and was comparable to schemes in operation in other EU countries and Norway.

“In these conditions, it is difficult to understand that Brussels should engage a procedure on a basis which could turn out to be contestable solely against the French fiscal EIG,” it said.

Arguing in favour of measures to support the EU shipping sector, the IFM said that it would be in favour of a general audit of incentives offered by EU member states to national flag operators as a means of harmonising them and compensating for the extra cost of employing EU seafarers.

It called on competition commission, Neelie Kroes, and transport commissioner, Jacques Barrot, to work together on policies to support the EU shipping sector but appealed to the French government to act urgently in the meantime to remove “all ambiguity” between it and the commission in Brussels.