

**PUBLIC CONSULTATION ON THE EU-SOUTH KOREA FREE TRADE AGREEMENT  
(FTA) IMPLEMENTATION**

**SEA EUROPE CONTRIBUTION**

SEA Europe – the Shipyards' and Maritime Equipment Association that represents the interests of the European Maritime Technology sector – welcomes the opportunity to provide input to the ongoing public consultation on the EU - South Korea Free Trade Agreement's (FTA) implementation.

SEA Europe, having national associations of Europe, Norway and Turkey as its member-association and not companies, did not feel it would be appropriate nor feasible to respond to all the questions contained in the online consultation document, considering the format of the latter as well as the specific nature of some of the information requested.

We thought it would nevertheless be useful to outline in the present note the key challenges the European maritime technology industry is facing, in particular the **market distortions arising from Korean state aid support to the local shipbuilding industry**. We also would like to reiterate the need for the European Commission to remain extremely vigilant and continue to act **against any violations by South-Korea of any of the provisions laid down in the FTA Agreement**.

**1. BACKGROUND**

The EU-South Korea FTA entered into force in July 2011. Although it is not certain if the increased bilateral trade flows experienced the last five years can be fully attributed to the benefits of the FTA in terms of e.g. tariff eliminations, some European marine equipment manufacturers have experienced positive developments in terms of increased export of industrial equipment and machinery to Korea.

The FTA does not only include ambitious commitments of phasing out tariffs. It also consists of important provisions for the European Maritime Technology sector, notably on subsidies (going beyond existing WTO rules) and on transparency. According to these provisions, both Parties are obliged to report annually on the total amount, types and sectoral distribution of subsidies which are specific and which may affect international trade. Moreover, upon request by one Party, the other Party shall provide additional information on any specific subsidy schemes.

SEA Europe has in the past requested the European Commission to raise the issue of **state support to the Korean shipbuilding industry in the context of EU-Korea FTA implementation**.

Indeed, for years, South Korean shipyards have been able to benefit from state-linked finance enabling them to build vessels at low prices and to compete for business, despite a lack of newbuilding demands or an over-capacity on the global market. Since South Korean shipbuilding is one of the country's most important industries, the Government-owned banks and financial institutes have come forward with rescue measures, including financial schemes and other support policies.

Today, the state aid problem has become even bigger than before, taking into consideration the current overcapacity of vessels, the extremely low demands for new-buildings and the massive state aid support

by the South Korean authorities in support of their local industry. And South Korea is refusing to provide any meaningful transparency to the industry or to states, e.g. in the context of the OECD Working Party 6 on Shipbuilding.

## **2. THE PROBLEM**

Shipbuilding is a global market. Problems such as overcapacity, low prices, financing difficulties are shared by all shipbuilding nations and are not new. But being one of the world's largest shipbuilding economy, the massive state support measures currently provided by the South Korean Government to its major shipyards will further aggravate the distortion of competition in the global shipbuilding market and be of detriment to the European shipbuilding industry.

Moreover, it seems that the local authorities are also supporting their local maritime equipment manufacturers and suppliers to export their products outside the country, thereby also increasing the pressure on the European maritime equipment sector.

SEA Europe is of the view that **South Korea's current support measures, aiming at rescuing individual companies from bankruptcy and stimulating its local shipyards, could be in violation with the country's trade agreement obligations.**

Indeed, based on several press reports (as any official documents are lacking from the Government despite many requests for transparency, including from States), it clearly seems that various measures adopted in support of the local shipbuilding industry were taken on a basis that **does not correspond to normal market behaviour**. In concrete, the decisions from state owned entities such as Korea Development Bank (KDB) and KEXIM (Export-Import Bank of Korea)<sup>1</sup> were quite opposite to decisions that private banks would have taken. ***A list of examples of support measures can be found in the Annex included below.***

**Under the EU-Korea FTA, subsidies covering debts or liabilities of certain enterprises and subsidies** (in the forms of loans, guarantees, cash grants, capital injections, provision of assets below market prices, tax exemptions) to insolvent or ailing enterprises – without a credible restructuring plan – would in SEA Europe's opinion **be regarded as specific and prohibited subsidies in so far as they adversely affect international trade.**

## **3. SUGGESTED ACTIONS IN THE CONTEXT OF THE EU-KOREA FTA IMPLEMENTATION**

South Korea's support measures to its local shipyards therefore seem to be in violation with the subsidies and transparency obligations that South Korea is required to fulfil in the context of EU-South Korea FTA. Moreover, based on information available to SEA Europe, the afore-mentioned South Korean support measures seem to fall within the scope of subsidies covering debts or liabilities of enterprises and subsidies to insolvent or ailing enterprises.

**Against this background, SEA Europe would like to reiterate – once again – its request for the European Commission to continue to remain extremely vigilant and to raise the issue of Korean**

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<sup>1</sup> KDB and KEXIM were recognized as "public body" in the past WTO panel (paragraphs 7.56 and 7.172 of WT/DS273/R, Korea - Measures affecting Trade In Commercial Vessels), meaning that KDB and KEXIM are considered as "government" in the context of Agreement on Subsidies and Countervailing Measures (ASCM).

**state support for its shipyards within the ambit of the consultation mechanism and transparency provisions of the EU-Korea FTA.**

**Not reacting to the South Korean state support measures towards its shipbuilding industry would not only be against the spirit of the FTA. It would also give a wrong political and legal signal that South Korea can continue to violate the FTA and engage in unfair trade practise to the detriment of the interests of European shipyards and maritime equipment manufacturers.**

**Both sectors are of economic and strategic importance for Europe, producing an annual turnover of € 91 billion and providing direct and indirect employment to more than 900,000 people. Both sectors are also important on the export market, in terms of civil and naval ships and equipment.**

If the European Commission would share our preliminary findings as regards the Korean state support measures as being in violation of EU-Korea FTA and perhaps also of multilateral trade obligations, we urge the Commission to utilize the consultation and dispute settlement instruments under the FTA.

SEA Europe remains at the disposal of the European Commission and European policy-makers for any further enquiry, and looks forward to a continued, close cooperation with the EU Institutions on this very important matter for the competitiveness of the European shipbuilding industry.

***About SEA Europe:*** SEA Europe, the European Ships and Maritime Equipment Association is the voice of the European maritime technology industry. SEA Europe promotes and supports European business enterprises which are involved in the building, construction, maintenance and repair of all types of ships and other relevant maritime structures, including the complete supply chain of systems, equipment and services.

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## ANNEX

Examples of Financial support provided by KDB and KEXIM (reported by media)

- Until October 2015, Daewoo Shipbuilding and Marine Engineering (DSM) had been provided with 23.2 trillion won worth of credit. 12.2 trillion won had been provided by KEXIM and 4.1 trillion by KDB. KEXIM and KDB accounted for about 70% of total credit provision. [Yonhap, 29/10/2015]
- KDB and KEXIM decided to provide financial support of 4.2 trillion won to DSME (2.6 trillion won by KDB and 1.6 trillion won by KEXIM). [Korea Times, 29/10/2015]
- KDB will reduce the capital of its 60 million shares in DSME without refund. KDB will inject 1.8 trillion won in DSME for DES. [Business Korea, 3/11/2016]
- KEXIM will buy 1 trillion won in DSME-issued perpetual bonds. [Reuters, 10/11/2016]

Shipping funds in Korea (reported by media)

- 1.3 trillion won (1.2 billion USD) worth of shipping fund for supporting the Korean shipping industry was established in December 2015 and 40% of it was provided by public institutions including KDB and KEXIM. [World Maritime News, 31/12/2015]
- Ministry of Oceans and Fisheries (MOF) established 10 billion won (8.5 million USD) worth of shipping fund for promoting to scrap and build ferries in March 2016. [Ajunews, 22/3/2016]
- The government aims to increase the fund tenfold, from KRW10 billion (USD8.45 million) this year, to KRW100 billion by 2019. [ÍHS Fairplay, 25/11/2016]
- The government will provide a ferry company with subsidy amounting to 50% of the ship price. [Kaiji Press, 01/12/2016]
- Hyundai Merchant Marine (HMM), South Korea's flagship carrier, is about to receive a massive KRW720bn (\$632m) in state funds ("HMM readies orders as \$632m state windfall lands", 14/2/2017, <http://splash247.com/hmm-readies-orders-as-632m-state-windfall-lands/>)

Another development which is worth mentioning is that KOTRA (State funded Korean Investment Promotion Agency) have opened offices in European countries to pro-actively try to sell Korean equipment (and, thus, threatening domestic equipment suppliers).