

Commission Decision of 29 June 2011 on measure SA.27106 (C 13/09 — ex N 614/08) which France is planning to implement for ports (notified under document C(2011) 4391) (Only the French text is authentic) (Text with EEA relevance) (2011/519/EU)

- Article 1 The measure entailing the transfer of port-handling equipment to private...
- Article 2 This Decision is addressed to the French Republic.
Signature

Changes to legislation: There are currently no known outstanding effects for the Commission Decision of 29 June 2011 on measure SA.27106 (C 13/09 — ex N 614/08) which France is planning to implement for ports (notified under document C(2011) 4391) (Only the French text is authentic) (Text with EEA relevance) (2011/519/EU). (See end of Document for details)

- (1) [OJ L 1, 3.1.1994, p. 3.](#)
- (2) [OJ C 122, 30.5.2009, p. 16.](#)
- (3) From 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU). The provisions laid down in the respective articles are identical in both cases. For the purposes of this Decision, references to Articles 107 and 108 TFEU should be understood as references to Articles 87 and 88 of the EC Treaty where appropriate.
- (4) French Official Gazette (JORF) No 0156, 5.7.2008.
- (5) [OJ C 122, 30.5.2009, p. 16.](#)
- (6) Under Law No 2009-1673 of 30 December 2009 on the budget for 2010 (JORF No 0303 of 31 December 2009), a regional business tax was introduced consisting of a land tax on companies and a levy on the added value of companies.
- (7) The companies are: Société d'Équipement du Terminal de Normandie (SETN), Générale de Manutention Portuaire (GMP), Compagnie Nouvelle de Manutention portuaire (CNMP) and STMC6.
- (8) [OJ L 379, 28.12.2006, p. 5.](#)
- (9) This provision amending Article 1518 A bis of the General Taxation Code on the introduction of local taxes came into force on 1 January 2011 and thus applies from the first year of exemption. The following subparagraph has been added to Article 1518 A bis: 'Granting of this reduction is subject to compliance with Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid.'
- (10) Law No 2008-660 of 4 July 2008 on port reform (see footnote 4).
- (11) Following this reform, sea ports will be classified in two categories: major sea ports (the former autonomous ports) and the other 'decentralised' commercial ports under the responsibility of local authorities.
- (12) 'I. — The procedure for selling the equipment referred to in Article 7 and transferring the property rights attached to it is as follows: If one or more operators have already invested in the terminal or have, as regular users of the equipment, handled significant traffic at this terminal, the negotiations for the transfer will, at their request, be conducted with them. If there are no operators as defined in paragraph 1, or if the negotiations have not been successfully concluded within 3 months of the adoption of the strategic plan or decision referred to in Article 8, the major sea port must publish an invitation to tender. It must then negotiate freely with the applicants, who must be selected by means of a transparent, non-discriminatory procedure. Following these negotiations, the major sea port chooses the operator and concludes a terminal contract. The contract, equivalent to an authorisation to occupy public property, can contain traffic targets. If the tendering procedure referred to in paragraph 2 proves unfruitful, and if the strategic plan provides for this, the major sea port must entrust the operations to a subsidiary for a period not exceeding 5 years. Following this period, the port must publish a new invitation to tender. If a further invitation proves fruitless, the activity must continue to be performed by the subsidiary, provided that this is set out in the strategic plan. The process must be carried out as many times as is necessary within a period of not more than 5 years each time until the tendering procedure is successful.'
- (13) The functioning arrangements of CNECOP are laid down in Articles 6 and 7 of Decree No 2008-1032 of 9 October 2008 implementing the port reform law and applying various provisions on ports.
- (14) French Official Gazette (JORF) No 0237, 10.10.2008.
- (15) See, for example, the judgment of the Court of Justice in Case C-222/04, *Ministero dell'Economia e delle Finanze v Cassa di Risparmio di Firenze* (ECR I-289, paragraph 129).
- (16) Decree No 2008-1032 of 9 October 2008 implementing Law No 2008-660 of 4 July 2008 implementing the port reform law and applying various provisions on ports.

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