

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 444 final  
Brussels, 12.10.1994

94/0238 (ACC)

Proposal for a  
COUNCIL DIRECTIVE

amending Directive 90/684/EEC on aid to shipbuilding

-----

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### **I. Introduction**

The current rules for State aid to shipbuilding are laid down in the Council Directive 90/684/EEC of 21 December 1990 on aid to shipbuilding, as amended by Directive 93/115/EC of 16 December 1993. This directive expires on 31 December 1994.

### **II. EEA relevance**

The Seventh Directive on Aid to Shipbuilding was not incorporated into the EEA Agreement. However, on 21 March 1994, the EEA Joint Committee adopted a Joint EC/EFTA Declaration, according to which, if the Seventh Directive were prolonged beyond the end of 1994 or replaced by a new Directive, the Directive in force shall be integrated into the EEA Agreement with effect as from 1 January 1995.

A directive amending the Seventh Directive is therefore to be extended to the EEA. However, no specific adaptations for EEA purposes are required. The adaptation of the Directive to the EEA shall be made in accordance with Protocol 1 to the EEA Agreement on horizontal adaptations.

### **III. State aid policy**

The main objectives of the Community's existing shipbuilding aid policy, as presently enshrined in the Directive, are:

- to provide a defensive instrument against unfair competition through injurious pricing, since no effective anti-dumping instrument is available given that ships cannot be regarded as imported in the normal sense;
- thereby to maintain a sufficient level of Community shipbuilding activity in those segments where Community yards will remain competitive under normal market conditions and encourage the structural adjustment of the EC shipbuilding industry towards higher value-added, specialised ships in order to ensure the industry's long-term competitiveness; and
- to provide, in accordance with the aims of the internal market, a level playing field so that intra-Community competition in shipbuilding is conducted on a fair and equitable basis.
- to ensure full aid transparency.

In the Commission's view, the policy has in general been effective and largely achieved its aims, safeguarding the Community yards and enabling the EC broadly to maintain its market share while restructuring. A key element of the policy has been the common production aid ceiling for shipbuilding and ship conversion set annually by the Commission in accordance with the Directive. This is intended to allow the most competitive Community yards to maintain their activities despite the abnormal world market conditions, and at the same time serves to encourage the less competitive yards to undertake the necessary restructuring. This is reinforced by the Directive's principle of progressive reduction in the annual ceiling of aid granted as a percentage of the contract value before aid. The ceiling, which was 28% in 1987, has since been progressively reduced and has been set at 9% since 1992.

### Market situation

At present, the industry is still in difficulty, with total capacity still in clear excess of demand. The latest data available to the Commission services show, however, a considerable increase in new orders compared with 1992, both at the Community and the world levels. In 1993, at world level, new orders at the end of the year totalled 14 526 100 cgt, representing an increase of 64.7% compared with 1992. The Community obtained an improved share of those new orders, with 2 919 100 cgt which represents an increase of 66%. France, Denmark and Italy were the countries in the European Union which most benefited from this improvement. However, at world level, Korea and Japan, with increases in orders of 240% and 48% respectively, kept the lead. In Europe, Finland and Norway also performed quite well.

This improvement in the market situation, although significant, is however not enough to offset the deterioration registered in 1992. The order book figures, at the end of the year at world level were, in 1993, still lower than the ones registered in the years 1990 and 1991. For the Community (5 393 900 CGT) and Western Europe (6 556 100 CGT), one has to go back to 1988 for a lower figure to have been registered (5 005 600 CGT and 6 121 800 CGT respectively). Also the ships completed in 1993 still register a decrease as compared to 1992, both in the European Union and in the whole of Western Europe (from 2 845 100 CGT to 2 591 600 in the EU and from 3 399 100 CGT to 3 010 300 CGT in Western Europe), reflecting the continued deterioration in new orders between 1990 and 1992. At world level there was, nevertheless, a slight improvement (from 12 118 400 CGT to 12 379 700 CGT).

In spite of this uneven performance, the industry operators are confident that this could be the beginning of a sustainable market upturn, which is due in view of the old age of the world fleet, the new safety and environmental requirements and the expected boost to world trade in the aftermath of the new GATT Agreement. Nevertheless the same operators are also concerned about the market impact of planned substantial capacity increases in Korea.

## The OECD agreement and future EU policy

After several years of negotiations within the OECD, a text of an agreement respecting normal competitive conditions in the commercial shipbuilding and repair industry was finally agreed on 17 July 1994. The Agreement will have first to be signed and then ratified, accepted or approved by all participating countries, with the aim to enter into force on 1 January 1996.

No aid for shipbuilding is to be allowed except for aid for research and development as well as social aid related to closures, which will continue to be allowed. Aid for restructuring is excluded with the exceptions provided for, in the Agreement, for Korea, Belgium, Spain and Portugal. Export credits for ships shall be allowed under the rules of the OECD understanding on export credits for ships. Domestic credits on terms equivalent to export credits are equally allowed. In order to prevent future cases of "hidden subsidies"/dumping, a mechanism to control injurious pricing has been decided. Disputes shall be settled in panels similar to the GATT panels. The USA has been allowed to keep its Jones Act for ships but subject to an annual tonnage ceiling and up until three years after the entry into force of the Agreement, after which period a review will take place.

According to the text of the OECD Agreement, as from 1 January 1996 no aid other than the aid allowed by the Agreement shall be authorized in the Community. This leaves one year for the Community yards to prepare for the new situation. The easiest way to achieve this appears to be the prolongation of the present directive, with only the minimum changes.

Accordingly, it is proposed to prolong the present directive, with only the minimum changes. These would consist of:

- (a) the extension of its period of validity up until 31 December 1995;
- (b) the elimination of the word "*metal-hulled*" from the definition of the vessels covered by the directive, in order to take account of the technical progress in the industry in recent years.
- (c) the introduction of a new Article 5A, providing for Spain to be allowed the payment of loss compensation to the public yards which represent aids already approved in past but not paid up due to budgetary difficulties, as at 31 December 1994, accrued with the interests due to delay in the payment schedule, up to a maximum total amount of Pta 89.104 billion to be paid by 31 December 1998.

## IV. Conclusion

In view of the above, it is proposed that the Council adopts, after consultation of the European Parliament and the Economic and Social Committee, the attached proposal amending the Council Directive 90/684/EEC on Aid to Shipbuilding.

Proposal for a  
COUNCIL DIRECTIVE

amending Directive 90/684/EEC on aid to shipbuilding  
-----

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 92(3)(e) and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Council Directive 90/684/EEC<sup>(1)</sup>, as last amended by Directive 93/115/EC<sup>(2)</sup>, will expire on 31 December 1994;

Whereas the aid policy established in Directive 90/684/EEC has generally achieved its objectives;

Whereas the text of an agreement respecting normal competitive conditions in the commercial shipbuilding and repair industry has been agreed within the OECD between the world's most important shipbuilding nations, including the Community, which excludes all aid for shipbuilding, except for aid for research and development and social aid related to closures;

Whereas that agreement should enter into force on 1 January 1996, after deposit of instruments of ratification, acceptance or approval by the parties thereto;

Whereas the parties to the agreement have agreed not to increase their present level of aid to the shipbuilding industry until the entry into force of the agreement;

Whereas provision should be made for Spain to pay aid already approved by the Commission in 1991<sup>(3)</sup> for which a derogation to the OECD agreement has already been made up until the end of 1998;

Whereas the latest technological developments in the building of vessels makes it appropriate to adapt the definition of vessels covered by Directive 90/684/EEC eliminating the requirement that vessels should have a metal hull,

---

<sup>(1)</sup> OJ No L 380, 31.12.1990, p. 27.

<sup>(2)</sup> OJ No L 326, 28.12.1993, p. 62.

<sup>(3)</sup> OJ No C 66, 14.3.1991, p. 10.

**HAS ADOPTED THIS DIRECTIVE:**

**Article 1**

Directive 90/684/EEC is amended as follows:

1. Article 1 is amended as follows:

- the opening phrase of point (a) is replaced by the following:

"(a) "shipbuilding" means the building in the Community of the following sea-going vessels:"

- in point (b), the term "metal-hulled sea-going vessels" is replaced by "sea-going vessels".

2. The following Article 5a is inserted:

**"Article 5a**

Notwithstanding Article 5(1), Spain may grant operating aid above the set aid ceiling in so far as it concerns aid already approved in the past, in the form of loss compensation to the public yards to facilitate their restructuring, and which has not been paid due to budgetary difficulties up until 31 December 1994. This outstanding aid, plus interest due to delays in the payments' schedule, amounts to a maximum of Pta 89.104 billion as at 31 December 1994, of which Pta 64.196 billion represent the outstanding aid and Pta 24.908 billion represent the interest on arrears. Release of this total amount of a maximum of Pta 89.104 billion must be subject to individual notification and prior approval by the Commission before 31 December 1995 and must be paid by 31 December 1998."

3. Article 13 is replaced by the following:

**"Article 13**

**This Directive shall apply from 1 January 1991 to 31 December 1995."**

**Article 2**

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

**Article 3**

This Directive shall enter into force on 1 January 1995.

**Article 4**

This Directive is addressed to the Member States.

Done at Brussels,

For the Council  
The President

ISSN 0254-1475

COM(94) 444 final

# DOCUMENTS

EN

10 07

---

Catalogue number : CB-CO-94-511-EN-C

ISBN 92-77-81738-0

---

Office for Official Publications of the European Communities  
L-2985 Luxembourg