



COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(96) 309 final

96/ 0165 (CNS)

Proposal for a
COUNCIL REGULATION (EC)

on aid to shipbuilding

(presented by the Commission)

Commission proposal further to prolong the Seventh Council Directive on aid to Shipbuilding

1. Introduction

- 1.1 In 1994, after several years of negotiation an international agreement was concluded within the framework of OECD respecting normal competitive conditions in the commercial shipbuilding and shiprepair industry. The agreement had been due to enter into force on 1 January 1996.
- 1.2 Council regulation 3094/95 of 22 December 1995 on aid to shipbuilding is intended to give effect to the State aid provisions of the OECD agreement.
- 1.3 Article 10 of the regulation provides that the regulation shall apply as from the date of entry into force of the OECD agreement with the relevant provisions of the shipbuilding aid directive (Directive 90/684/EEC, as most recently amended by Directive 94/73/EC) continuing to apply ad interim and until 1 October 1996 at the latest.
- 1.4 In a declaration to the Minutes, the Council and Commission agreed that if the OECD agreement had not entered into force by 1 June 1996 the Commission should put forward appropriate proposals so that the Council could decide before 1 October 1996 on the position that should be adopted by the European Union.
- 1.5 At its meeting on 20 May 1996, the Industry Council reviewed the situation regarding ratification of the OECD agreement. It called upon the Commission closely to monitor developments, and to submit in due course further evaluations on the matter, accompanied if necessary by appropriate proposals, in accordance with the Council's previous conclusions.
- 1.6 Since there are some uncertainties over the entry into force of the agreement, this paper reviews the situation and puts forward proposals regarding future shipbuilding aid policy beyond 1 October 1996 against the possibility that by that date the OECD agreement has still not entered into force.

2. OECD agreement

- 2.1 Under the OECD agreement, generally all measures of support for shipbuilding are prohibited except for aid for research and development, social aid related to closures; export credits complying with the revised 1994 OECD understanding on export credits for ships; and domestic credits for ships under equivalent terms and conditions.
- 2.2 Although the European Union, Korea, Norway and also, within the last few days, Japan have ratified the agreement, the ratification of the USA is still awaited. At an OECD meeting in December 1995 it was agreed that the revised target date for ratification would be 15 June 1996 at the latest, with entry into force 30 days following the last ratification, i.e. before 15 July 1996. According to the information available to the Commission, it seems that although the US administration was committed to press for timely ratification, the US failed to ratify by the deadline as expected because of delays in passing the necessary legislation. The prospects of when the US will ratify are uncertain at this stage. Against this

background, the European Union is obliged to prepare possible contingency measures.

3. Existing State aid Rules

- 3.1 As noted in paragraph 1.3 above, with the continuing delays in entry into force of the OECD agreement, the rules of the Seventh Council Directive on aid to shipbuilding continue to apply at present.
- 3.2 The directive maintains the policy established by the Sixth Directive, adopted in 1986 against a background of abnormally difficult market conditions, caused by a declining demand for ships and a rapid increase in shipbuilding capacities, particularly in the Far East (with competitors benefitting from home credit schemes and domestic-build practices), leading to a significant imbalance between supply and demand and depressed prices. The main aim of the directive has therefore been:
- to safeguard the Community shipbuilding industry by providing a defensive instrument against unfair competition through injurious pricing below costs, thereby maintaining a sufficient level of Community shipbuilding activity in those market segments where the Community will remain competitive under normal market conditions, such as less labour-intensive, technologically complex specialised ships;
 - to encourage the necessary structural adjustment of EC shipbuilding toward these directions;
 - to provide, in accordance with the aims of the internal market, a level playing field so that intra-Community competition in shipbuilding is carried out on a fair and equitable basis.
- 3.3 Under the Directive (Article 4) production aid for shipbuilding and ship conversions, (but not ship repair) may be granted, up to a common maximum aid ceiling which reflects the difference between the costs of the most competitive Community yards and market prices of their main international competitors, with particular regard to those market segments in which Community shipbuilders remain relatively most competitive.
- 3.4 The production aid ceiling must be reviewed at least once every 12 months, which serves to ensure that the most competitive parts of the EC shipbuilding industry can maintain their activities despite the abnormal world market conditions; and which at the same time encourages less efficient yards to undertake the necessary restructuring measures. This is reinforced by the principle of degressivity established by the Directive. The ceiling, which was 28% in 1987, has been progressively reduced to 9% currently.
- 3.5 In order to ensure transparency as far as possible all types of production aid, whether direct or indirect, are subject to the ceiling. Article 3 provides that aid to shipowners or to third parties linked to the construction of ships is counted under the ceiling. Similarly operating aid granted to yards, not linked to an individual contract, but in the form of e.g. loss compensation or rescue aid is also subject to the ceiling.

- 3.6 The only operating aids exempted from the ceiling are credit facilities complying with the 1981 OECD Understanding on Export Credits for Ships (Article 4.6) and aid granted as development assistance to developing countries (Article 4.7)
- 3.7 In order to ensure the maximum intra - Community competition, Article 4.5 of the directive provides that where only Community yards are competing for the same contract the Commission will, if requested, intervene to ensure that competition is not distorted by aid.
- 3.8 The Directive also lays down specific rules for investment aids (Article 6), which must be linked to a restructuring plan which does not involve any increase in the yard's shipbuilding capacity or which must be directly linked to a corresponding irreversible reduction in capacity of other yards in the Member State concerned; aid for closures (Article 7), on condition that the resulting capacity reduction is of a genuine and irreversible nature (with the facilities having to remain closed for not less than 5 years; and not being reopened within a further 5 years after the 5 years, i.e. for a total of 10 years, without the Commission's prior approval); and aid for research and development (Article 8). In addition the directive (Articles 11 and 12) imposes notification and reporting obligations on Member States in order that the Commission can monitor compliance with the rules.
- 3.9 In the Commission's view the Directive has been generally effective and largely achieved its aims. It has provided a transparent and stable framework safeguarding Community yards and enabling the Community broadly to maintain its world market share in recent years at around 20%. At the same time it has been possible to undertake the necessary restructuring. Over the last 20 years the size of the Community's shipbuilding industry has shrunk significantly. (For example in Western Europe (EU 15 plus Norway) capacity has fallen from 8.5 million cgt in 1975 to 4.2 million cgt in 1994. During the same period the workforce has also been reduced substantially, in the EU 12 (minus the three new Member States) from nearly 209,000 in 1975 to under 68,000 in 1994). This approach has demonstrated to our trading partners that the Community will protect its shipbuilding industry against unfair competition but at the same time will not prop up uncompetitive capacity.

4. Future Policy

- 4.1 The early entry into force of the OECD agreement is vitally important if a normalisation of world shipbuilding market is to be achieved. By ratifying, the Community has already signalled its commitment to the agreement. However, so long as other parties to the agreement have not ratified and continue to maintain subsidies and other market-distortive measures, it is necessary to maintain a defensive instrument for Community yards against unfair competition. This is particularly necessary given the prevailing market situation which, notwithstanding some encouraging signs, remains difficult. It would be inappropriate in such circumstances for the European Union unilaterally to dismantle its existing aid arrangements.

5. Proposal

- 5.1 In the light of the above it is proposed that if necessary the Community should be prepared to maintain the rules of the directive beyond 1 October 1996 should there be a continuing delay in the entry into force of the OECD agreement. In that event, since these rules have generally operated satisfactorily, and new measures

of support are in any case prohibited by the "standstill" provisions of the Final Act of the negotiations concluding the OECD agreement, the rules of the directive could be maintained unchanged. This would include the principle of degressivity in the level of the production aid ceiling. The aim of a progressive reduction in the aid ceiling would remain, but the actual level set would be dependent on the market situation and the size of the cost/price gap.

- 5.2 As regards the duration of any prolongation of the rules of the directive, a lengthy prolongation could send the wrong signals to the other parties to the OECD agreement. On the other hand, given the current uncertainties over the timing of the entry into force of the OECD agreement, too short a prolongation could create further uncertainty for Community yards over possible future policy direction. To avoid these problems it is proposed that the directive be prolonged until 31 December 1998 unless the OECD agreement enters into force in the meantime. This would also allow sufficient time to undertake a more fundamental review of future policy if appropriate.

6. Conclusion

- 6.1 Accordingly, it is proposed that the Council adopts, after consultation of the European Parliament and the Economic and Social Committee, the attached amendment to Regulation 3094/95 providing for its entry into force as from the date of entry into force of the OECD agreement, with the relevant provisions of the shipbuilding directive continuing to apply ad interim and until 31 December 1998 at the latest.
- 6.2 In order to avoid any legal vacuum the Council should take a decision before 1 October 1996.

Proposal for a Council Regulation 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)(c), 94 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, an agreement respecting normal competitive conditions in the commercial shipbuilding and repair industry⁽¹⁾ concluded between the European Community and certain third countries with the framework of the Organisation for Economic Co-operation and Development (OECD), has not yet entered into force.

Whereas, therefore Council Regulation 3094/95 of 22 December 1995 on aid to shipbuilding⁽²⁾ has not yet entered into force.

Whereas, in accordance with Article 10 of Regulation, the relevant rules of Council Directive 90/654/EEC⁽³⁾ on aid to shipbuilding continue to apply ad interim, pending the entry into force of the OECD agreement and until 1 October 1996 at the latest;

Whereas as a contingency measures against the possibility that the entry into force of the OECD agreement is delayed beyond 1 October 1996 the Council needs to take appropriate steps.

HAS ADOPTED THIS REGULATION

Article 1

The third paragraph of Article 10 of Regulation 3094/95 shall be replaced by the following:

Pending the entry into force of the said Agreement, the relevant provisions of Directive 90/684/EEC shall apply until the Agreement enters into force and until 31 December 1998 at the latest.

Article 2

This Regulation shall be binding in its entirety and directly applicable in all Member States.

(1) OJ N° C 375, 30.12.1994, p. 3

(2) OJ N° L 332, 31.12.1995, p. 1

(3) OJ N° L 380, 31.12.90, p. 27. Directive last amended by Directive 94/73/EC (OJ no. L 351, 31.12.1994, p. 10)

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