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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1013/97
of 2 June 1997
on aid to certain shipyards under restructuring

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 92 (3) (e), 94 and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas by virtue of Council Regulation (EC) No 3094/95 of 22 December 1995 on aid to shipbuilding (2) the provisions of Council Directive 90/684/EEC of 21 December 1990 on aid to shipbuilding (3) are applicable to such aid until either the OECD 'Agreement respecting normal competitive conditions in the commercial shipbuilding and repair industry' enters into force or, at the latest, until 31 December 1997;

Whereas the shipbuilding industry is important for the mitigation of structural problems in a number of regions of the Community;

Whereas the direct application of the common maximum ceiling does not allow for the comprehensive restructuring measures necessary in a number of shipyards in these regions and a special transitional arrangement has therefore been introduced;

Whereas it was acknowledged in Directive 92/68/EEC (4) that the shipbuilding industry in the territories of the former German Democratic Republic required urgent and comprehensive restructuring in order to become competitive, a target which has not been fully achieved for two shipyards in the envisaged restructuring period due to unforeseeable circumstances beyond the control of these shipyards;

Whereas in the case of the said two shipyards a further transitional arrangement is needed, in order to enable completion of their restructuring, which will allow them to comply subsequently with the aid rules applicable to the Community as a whole;

Whereas the shipbuilding capacity in the territories of the former German Democratic Republic was reduced to 327 000 compensated gross tonnes (cgt) by 31 December 1995 and whereas the German Government made a commitment to ensure that this capacity limitation is fully respected until at least the end of the year 2000 and to extend this limitation until the end of 2005 unless the Comimission authorizes an earlier termination of the capacity limitations;

Whereas a further reduction of shipbuilding capacity in Germany will result from the closure, with respect to new building, of the Bremer Vulkan Werft in Bremen-Vegesack before the end of 1997;

Whereas, in spite of the efforts made by the Greek Government to privatize all its public yards by March 1993, the Hellenic shipyard was only sold in September 1995 to a cooperative of its workers, the State having kept a majority holding of 51 % for defence interests;

Whereas the financial viability and the restructuring of the Hellenic shipyard necessitates the provision of aid which allows the company to write-off the debt accumulated before its delayed privatization;

Whereas a further restructuring of the publicly owned yards in Spain is necessary so that each of these yards, being established as individual profit centres at full cost basis, will achieve financial viability by 31 December 1998;

Whereas under this restructuring plan there will be a capacity reduction in these yards from 240 000 compensated gross registered tonnes (cgrt) to 210 000 (cgrt); whereas this reduction will be supplemented by the non-reopening to shipbuilding of the public yard at Astano (135 000 cgrt capacity), by additional capacity reductions

(1) OJ No C 150, 19. 5. 1997.
(2) OJ No L 332, 30. 12. 1995, p. 1. Regulation as amended by Regulation (EC) No 1904/96 (OJ No L 251, 3. 10. 1996, p. 5).
(3) OJ No L 380, 31. 12. 1990, p. 27. Regulation as last amended by Directive 94/73/EC (OJ No L 351, 31. 12. 1994, p. 10).
(4) OJ No L 219, 4. 8. 1992, p. 54.

elsewhere in Spain amounting to a further 17 500 cgrt and by not carrying out ship conversions in the shipyard at Astander as long as it remains in public ownership;

Whereas no further aid for restructuring purposes (including loss compensations, loss guarantees and rescue aid) will be made available to the shipyards covered by this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. Notwithstanding the provisions of Regulation (EC) No 3094/95, for the yards under restructuring specified in paragraphs 2, 3 and 4 of this Article the Commission may declare additional operating aid compatible with the common market for the specific purposes and up to the amounts specified.

2. In the territory of the former German Democratic Republic, operating aid for the period from 1 March 1996 until 31 December 1998 in favour of MTW-Schiffswerft and Volkswerft Stralsund may be considered compatible with the common market up to a total amount of DM 333 million and DM 395 million respectively. The said amounts comprise the aid to facilitate the further operation of the yards, social aid, contract-related aid under the 'Wettbewerbshilfe' scheme and the aid equivalent of guarantees. For these yards the provisions of Chapter II of Directive 90/684/EEC shall not be applicable during the restructuring period with the exception of Article 4 (6) and (7) of the said Directive, and no other operating aid may be paid for works on contracts or losses in the relevant period. For contracts signed during the restructuring period but carried out after it, the Community rules on contract-related aid valid on the date of contract signature shall apply, including those related to the date of delivery of the vessels.

In the event of a reduction of the maximum allowable intensity for contract-related aid, the contract-related aid for the yards subject to this paragraph shall be reduced proportionally for new contracts signed by these yards under which delivery of the vessel is stipulated during the restructuring period.

3. Drachma aid in the form of a waiver-of debts of 'Hellenic shipyards', up to the amount of Dr 54 525 million, corresponding to debts relating to civil work by the yard, as existing on 31 December 1991 and with accrued interest rates and penalties until 31 January 1996 may be regarded as compatible with the common market. All other provisions of Directive 90/684/EEC shall apply to this yard.

4. Aid for the restructuring of the publicly-owned yards in Spain may be considered compatible with the common market up to an amount of Pta 135 028 million in the following forms:

— interest payments of up to Pta 62 028 million in 1988 to 1994 on loans taken on to cover unpaid previously approved aid,

— tax credits in the period 1995 to 1999 of up to Pta 58 000 million,

— capital injection in 1997 of up to Pta 15 000 million.

All other provisions of Directive 90/684/EEC shall apply to these yards.

The Spanish Government agrees to carry out, according to a timetable approved by the Commission and in any case before 31 December 1997, a genuine and irreversible reduction of capacity of 30 000 cgrt.

Article 2

For the restructuring programmes in Spain and Germany benefiting from aid as provided for in Article 1, the notification referred to in Article 11 (2) of Directive 90/684/EEC shall be supplemented by a programme for the monitoring of the actual use of the operating and investment aid, compliance with the restructuring plan and enforcement of capacity limitations which is acceptable to the Commission.

The programme of monitoring shall include on site monitoring by the Commission assisted if necessary by independent experts.

The Member States concerned shall supply the Commission until the end of June 1999 with quarterly reports on progress towards completing the restructuring programmes benefiting from aid as provided for in Article 1 and information on the specific shipyards benefiting from aid as provided in Article 1. The information on the specific shipyards shall include the following elements:

— use of aid,
— investments,
— productivity performance,
— capacity reductions and limitations,
— employment reductions,
— financial viability.

If, on the basis of the information received, the Commission considers that the conditions attached to any authorization of aid pursuant to this Regulation have not been complied with, it may require suspension of the aid payments and/or recovery of aid.

The Commission shall provide to the Council twice yearly reports on progress on the restructuring programmes, which may also be discussed at a multilateral meeting with national experts.

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

It shall apply until 31 December 1998.

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

Done at Luxembourg, 2 June 1997.

For the Council

The President

H. VAN MIERLO