STATE AID

C 10/94 (ex NN 104/93)

Greece

(97/C 306/06)

(Text with EEA relevance)

(Articles 92 to 94 of the Treaty establishing the European Community)

Communication from the Commission, pursuant to Article 93 (2) of the EC Treaty to the other Member States and interested parties concerning aid which the Greek Government plans to grant to Hellenic shipyard plc

In the letter reproduced below, the Commission notified the Greek Government of its decision to terminate the procedure initiated on 16 February 1994 (1) and extended on 8 January 1997 (2).

'Article 10 of Council Directive 90/684/EEC (3) provides, in its second paragraph, that "during 1991, operating aid for shipbuilding, ship conversion and ship repair not related to new contracts may be considered compatible with the common market if granted for the financial restructuring of yards in connection with a systematic and specific restructuring programme linked to the disposal by sale of the yards."

On 23 December 1992 (4), on the basis of the undertakings given by the Greek Government that its public yards would be privatized by 31 March 1993, the Commission accepted that the write off of the debts of the four yards affected by Article 10 — in the amounts notified to it — was compatible with the said provisions.

The Greek Government having failed to respect the March 1993 deadline, on 16 February 1994 (5), the Commission decided to initiate proceedings pursuant to Article 93 (2) of the EC Treaty in respect of the operating aid given by Greece to the two yards that at that time were still under State ownership, i.e. the Hellenic and the Neorion shipyards.

After the Neorion yard was privatized, on 26 July 1995 (6), the Commission decided to close the procedure under Article 93 (2), of the EC Treaty, with a positive decision for the aid to the Neorion yard and a negative decision concerning the aid to the Hellenic yard.

However, at the request of the Greek Government, claiming that the sale of the yard was imminent, the Commission decided to suspend notification of that decision. In its September 1995 meetings the Commission twice put off execution of the July 1995 decision.

49 % of the shares in the yard were sold on 18 September 1995 to a co-operative of the yard's workers. Greece thus made use of the opportunity to keep a majority holding in one of the yards, justified by defence reasons as provided for in Article 10 (3).

On 31 October 1995 (7), the Commission took a new decision by which it approved the aid to the Neorion yard and revoked the final negative decision for Hellenic Shipyards. As regards this yard, it requested that a business plan proving the viability and profitability of the yard be submitted not later than 11 January 1996.

The plan was notified as requested. The conditions set in Article 10 of the Directive and in the October 1995 Commission Decision for approval of the aid were met. However, as regards the level of debts to be cleared, these had increased considerably due to interests and penalties on the initial Dr 44 billion approved by the Commission in 1992. The new debts are part of the liabilities of the yard. The Commission considered that aid to cover new debts constituted new aid.

On 8 January 1997 (8) based on this assessment, the Commission decided to extend the existing procedure that covered the initial aid amount of Dr 44 billion to the Hellenic shipyard to the total amount of aid for clearance of debts at the moment of privatization. No comments from third parties were received in the context of this extension of procedure.

(1) OJ C 138, 20. 5. 1994.
(2) OJ C 80, 13. 3. 1997, p. 8.
(3) OJ L 380, 31. 12. 1990.
(4) OJ C 88, 30. 3. 1993.
(5) OJ C 138, 20. 5. 1994.
(6) PV(95) 1258, 26. 7. 1995, SEC(95) 1322/2, 24. 7. 1995.
(7) OJ C 68, 6. 3. 1996.
(8) OJ C 80, 13. 3. 1997, p. 8.

By letter dated 20 February 1997, Greece presented its comments and informed the Commission of the exact amount of debts to be written off, for which the Commission's approval is necessary. The current debts of the yard amount to Dr 112,6 billion. Out of this amount, Dr 11,765 billion concern current business of the yard and will remain in its accounts. Dr 46,355 billion correspond to credits for the building of military vessels, activity which is outside the scope of the EC Treaty. This leaves Dr 54,525 billion (Dr 10,525 billion higher than the amount initially approved), that constitutes aid and which the Greek Government cannot write off without the Commission's prior approval. The Commission could not give this approval on the basis of the provisions of the 7th Directive.

On 2 June 1997, Council Regulation (EC) No 1013/97 of 2 June 1997 on aid to certain shipyards under restructuring [9] was adopted. Article 1 (3) of this regulation provides that aid in the form of a waiver-of debts of "Hellenic shipyards", up to the amount of Dr 54,525 billion, corresponding to debts related to civil work of the yard as existing on 31 December 1991 and accrued by interest rates and penalties until 31 January 1996, may be regarded as compatible with the Treaty.

As requested by the Commission, a business plan was received on 11 January 1996. This plan was drawn up by an international, independent consultant and aims at restoring the financial and economic viability of the yard. In September 1996, management of the yard was awarded, through open bid procedure, to an independent private company with the special task of implementing that plan.

The business plan aims at restoring the competitiveness of the yard through increased productivity and modernization. The yard is expected to return to profitability in 1998. The main elements of the plan are a labour restructuring programme and an investment one. The number of employees is to be reduced from 2 966 to 2 000 and work is to be organized in a more flexible and rational way. Investments will be made to replace old and obsolete equipment with new updated technology. As a result, an increase in productivity is expected which will allow the yard to compete successfully with other yards both at national and at international level.

At present, the plan is being implemented according to schedule in the areas of labour organization and management. The investment programme has not yet started, due to the fact that the yard's liabilities reduce its credit-worthiness, thus hindering the yard from raising funds in the market for the necessary financing. Once it is executed, the ongoing restructuring should be completed and the yard should return to viability.

Finally, the Commission notes that Regulation 1013/97 was adopted by the Council with the condition that no further operating aid for restructuring purposes will be made available for the yards covered by the regulation. Accordingly, no such restructuring aid can be granted to this yard in future.

In light of the above, the Commission has decided to close the procedure pursuant to Article 93 (2) by authorizing the aid subject to the conditions described in this letter. Should the Commission consider that any of these conditions have not been complied with, it may require the suppression and/or recovery of the aid.'

[9] OJ L 148, 6. 6. 1997, p. 1.