



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.05.2000
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2000/0130 (ACC)

Proposal for a

COUNCIL DECISION

on the signing and conclusion of an international agreement between the European Community and the Republic of Korea in the form of Agreed Minutes relating to the world shipbuilding markets

(presented by the Commission)

EXPLANATORY MEMORANDUM

The world shipbuilding industry is experiencing severe problems caused mainly by a structural imbalance between supply and demand. While the main shipbuilding countries, notably in the Community, have restructured and cut capacity, Korean shipyards substantially increased their production capacity in the 1990s.

In a study carried out for the Commission an independent consultant looked at recent orders logged by Korean shipyards and found that the prices they quoted were well below cost.

With world prices at rock bottom the Community industry saw its market share fall from 25% in 1998 to 17% in 1999. Matters took a further turn for the worse at the start of this year, with Korean shipbuilders taking almost 70% of international orders in January, ten times more than the Community industry.

On 9 November 1999 the Council, examining the first report on the situation in world shipbuilding presented by the Commission under Article 12 of Regulation (EC) No 1540/98, noted that the sector was facing a critical situation worldwide and expressed its serious concern at such practices, which were severely damaging to the interests of EU shipyards. In their conclusions, the industry ministers called on the Commission *"to pursue its efforts to establish a level playing field for the sector by immediately engaging the Republic of Korea in constructive consultations with a view to halting the unfair competition"*.

As instructed, the Commission accordingly held several rounds of intensive consultations with the Korean Government. It negotiated a draft agreement in the form of Agreed Minutes in which, inter alia, the Korean Government undertakes:

- to refrain from any direct or indirect action to write off or roll over loans to Korean shipyards or provide any type of financial support other than on a commercial basis,
- to apply internationally accepted accounting principles and ensure that its shipbuilding companies and their creditors apply the same principles of transparency,
- to ensure that Korean shipyards' prices reflect all the factors of cost according to the definition of a normal value under the WTO anti-dumping agreement,
- to enter into ad hoc consultations at the Community's request on any general or specific questions related to shipbuilding. The consultations must take place within four weeks and be concluded within sixty days.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with the first sentence of Article 300(2) thereof,

Having regard to the proposal from the Commission¹,

Whereas:

- (1) The world shipbuilding industry is experiencing severe problems due mainly to overcapacity. Unlike the Community industry, which carried out a programme of restructuring and capacity cuts throughout the 1990s, Korean shipyards substantially increased their capacity from 1993 onwards.
- (2) A study of Korean contracts carried out for the Commission by an independent consultant showed that Korean shipyards were pricing well below cost. Such practices have enabled the Korean industry to increase its market share substantially, in particular at the expense of the Community industry, which is currently experiencing severe difficulties. With world prices extremely low, the Community industry saw its market share decline from 25% in 1998 to 17% in 1999.
- (3) On 9 November 1999 the Council, examining the first report on the situation in world shipbuilding presented by the Commission under Article 12 of Regulation (EC) No 1540/98,² noted that the sector was facing a critical situation worldwide and expressed its serious concern at such practices, which were severely damaging to the interests of EU shipyards. In their conclusions, the industry ministers called on the Commission *"to pursue its efforts to establish a level playing field for the sector by immediately engaging the Republic of Korea in constructive consultations with a view to halting the unfair competition"*.
- (4) As instructed, the Commission accordingly held several rounds of intensive consultations with the Korean Government and negotiated a draft agreement in the form of Agreed Minutes. Once the agreement is signed it will commit the Korean Government to refrain from any direct or indirect intervention to underwrite loss-making Korean shipyards, to apply internationally accepted financial and accounting

¹ JO C , , p. .

² OJ L 202, 18.7.1998.

principles and to ensure that Korean shipyards set prices that reflect market conditions. The draft agreement also provides ad hoc consultation machinery to deal promptly with any issue raised by either of the parties,

HAS DECIDED AS FOLLOWS:

Article 1

The agreement in the form of Agreed Minutes between the European Community and the Government of the Republic of Korea relating to the world shipbuilding market is hereby approved.

The text of the agreement is annexed to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the agreement on behalf of the Community.

Done at Brussels,

*For the Council
The President*

ANNEX

Agreed Minutes relating to the world shipbuilding market

1. European Commission and the Korean Government held talks on 15 March 2000 to address current problems relating to the world shipbuilding market and with a view to promoting stability and fair competition. Both sides recognised that the world shipbuilding market is characterised by significant overcapacity and steadily decreasing prices, not allowing a sustainable development of the industry.
2. The EU and Korea being the main players in the shipbuilding market, their respective authorities have a special obligation to work together and with other shipbuilding nations to ensure that fair competition prevails on all markets.
3. Both sides expect that the achievement of the following objectives will contribute in a major way to restoring normal competitive conditions on the market, and to providing for an effective means of protection against sales of ships at price below cost.
4. Both sides will work together with the view to reducing the unsustainable prevailing imbalance between supply and demand. They will invite the other shipbuilding countries to support these efforts. By firmly committing themselves to fair competition, both parties will avoid financially non-viable over-investments and ruinous price undercutting. Both sides should make all efforts, either on an individual basis or jointly, to help improve and stabilise the market situation.
5. The aim of both sides is to promote fair and competitive market conditions in the world market and to work together to stabilise the market and thereby help raise the level of ship prices to ones that are commercially sustainable.

(1) Action by public authorities in respect of shipyards in financial difficulties.

Both sides agree that all financial institutions shall conduct their business with shipbuilders in a commercially sound manner.

In that respect, the Korean Government will continue to strictly supervise the asset soundness of the financial institutions.

In line with the Korean Government's policy of non-intervention and conscious of the imbalance in world shipbuilding markets, the Korean authorities will ensure, in the context of bank supervision, that banks in which the Korean Government has a shareholding or private banks acting on its behalf will only extend new loans, write off or roll over existing loans or provide any type of support on a commercial basis. The Korean Government confirms that it will not provide these financial institutions with public support for the purpose of covering losses resulting from their business relations with any specific enterprise or industry.

The Korean Government agrees that KAMCO should purchase bad loans related to shipyards at prices that reflect actual and expected recovery rates as well as funding costs, and at minimal prices for unsecured loans.

The Korean Government confirms that:

It will not extend support to its shipbuilders which is inconsistent with Korea's international obligations;

The management take-over of Samho by Hyundai will not be accompanied by publicly supported debt restructuring and/or moratoria operations

While under government ownership Korean banks will, when dealing with shipbuilding companies, be operated on a fully commercial basis. The Korean Government will not be involved in the day to day management. Public banks will grant no favourable repayment guarantees for shipbuilding contracts entered into by shipyards in financial difficulties or under court receivership. Further to that, the conditions for repayment guarantees shall reflect the substantial commercial risk stemming from the shipyards' precarious situation.

(2) Transparency

Both sides consider that the application of internationally accepted accounting principles will ensure that sound financial management governs shipbuilding companies and their creditors.

Strict risk assessment and provisioning rules are to be enforced even if these transparency rules unveil further burdens to the corporate and the banking sectors.

In accordance with its transparency commitments to the IMF and the World Bank, the Korean Government revised its accounting standards in December 1998, which took effect beginning 1 January 1999. The Korean Government will make sure that internationally accepted accounting principles are and will continue to be fully applied to the shipbuilding companies.

(3) The pursuit of commercially viable pricing practices

Both sides recognise that injurious pricing of ships should be remedied or prevented to ensure normal competitive conditions in the world shipbuilding market.

In this regard, the Korean Government agrees that the level of ship prices shall reflect all the factors of costs according to the definition of a normal value under the WTO anti-dumping Agreement.

(4) Co-operation between the two shipbuilding industries

Both sides encourage their shipbuilding industries to closely co-operate with each other to ensure normal competitive conditions in the world shipbuilding market. Both sides will support their shipbuilders to strengthen their ties with each other in the field of technology, procurement and business activity as well as multilateral activities on shipbuilding.

(5) Consultations

Both sides agree to meet every 6-month at least to review the operation of these “Agreed minutes” to discuss policies and measures relating to shipbuilding during this period. Such matters may include, but are not limited to supply and demand, capacity, price levels, government support and ways and means to improve the current situation in the shipbuilding market. Both sides agree that, in order to review the operation of these “Agreed minutes”, the first meeting shall be held no later than September 2000.

Both sides agree to have *ad hoc* consultations at the request of any party to discuss general and specific questions relating to the matters covered by the present “Agreed minutes”, with a view to reaching a mutually acceptable solution to any issue. These *ad hoc* consultations will take place within 4 weeks of request of either party. The parties will, in general, aim to conclude these *ad hoc* consultations within 60 days.

Both sides agree on the necessity to have a view of the facts as complete as possible, both to reduce the risk of problems arising in the future and to increase the possibility to resolve problems through consultations. If proposed by either side, technical experts will be invited to seek all relevant information and provide an objective analysis thereof. The parties will appoint their respective experts within two weeks of a request to hold *ad hoc* consultations. The parties will, from the outset of such consultations, inform their respective industries and all interested parties of both sides, including, if relevant, financial institutions, of the problems identified by either party.

- (6) These minutes are without prejudice to existing rights and obligations under the WTO Agreement.

FINANCIAL STATEMENT

1. TITLE OF OPERATION

Council Decision on the signing and conclusion of an international agreement between the European Community and the Republic of Korea in the form of Agreed Minutes relating to the world shipbuilding market

2. BUDGET HEADING (S) CONCERNED

None

3. LEGAL BASIS

Article 133 of the Treaty establishing the European Community

4. FINANCIAL IMPACT

None