

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 517 final.

Brussels, 28 October 1977.

Proposal for a
COUNCIL DIRECTIVE

on aid to shipbuilding

(submitted to the Council by the Commission)

COM(77) 517 final.

1. Introduction

1.1. State of the shipbuilding industry

Over recent years the state of the shipbuilding industry worldwide has worsened considerably. Excessive surplus shipping capacity has been created and as a result new orders placed by shipbuilders have fallen off rapidly ; consequently shipyards' order books are becoming empty.

Substantial worldwide surplus capacity is forecast for the years to come ; it may be estimated at 40 % of the industry's production capacity. In these circumstances the competition from certain non-member countries (Japan, Korea, etc.) is being felt more sharply.

Many Community shipyards can no longer meet this competition and are having difficulty in remaining in business. Employment in the shipyards can no longer be maintained at the level of 1974 and 1975. The Member States are being obliged to introduce national measures to tackle the crisis which will most probably continue beyond 1980.

1.2. Possible Community action

The Community cannot remain indifferent to this development. When Parliament adopted the Resolution on the Shipbuilding industry in February (1), the Commission undertook to take action without delay. Moreover, discussions with the Member States have revealed that action is required at Community level and that the Member States definitely prefer to pursue the action defined in the three previous Directives by adapting their guidelines to the current crisis conditions affecting the industry.

(1) Resolution of 10 February 1977, 181 e/77 ASS 109.

1.3. Guidelines for the Directive

- 1.3.1. Previous Council Directives on aid to shipbuilding were mainly designed to harmonize intervention in the field and bring down the intensity of aids most damaging to competition between Member States such as production aids. Moreover, these Directives have been gradually extended to forms of aids not originally covered. This is true particularly of the Third Directive which expires at the end of 1977 and contains provisions on investment and rescue aids. The new Directive follows the same lines although it has been adapted to the particularly difficult conditions mentioned at 1.1.
- 1.3.2. Pursuing the guideline contained in the previous directives on withdrawal of production aids, the draft Fourth Directive excludes the granting of such assistance under normal circumstances. However, to meet the crisis, specific provisions have been made authorizing such assistance provided it is bound up with restructuring the industry and does not affect trading conditions to an extent contrary to the common interest. This boils down to stating that this assistance can only be tolerated if it is used exclusively to align Community shipyard prices with those of non-member countries and does not discourage orders which would normally have been placed with other Community shipyards if no assistance at all had been granted.
- 1.3.3. As far as certain aids limited directly to the purchase of ships by shipowners are concerned, checks are to be made after the assistance has been granted to prevent Member States using it to encourage the placing of orders with national yards only.

This would not only create discrimination among shipbuilders but restrict the shipowners' freedom to order ships where they find the most favourable economic terms.

1.4. The Directive in the light of industrial measures

In preparing the draft Fourth Directive account was taken of all generally available information on the industry. The OECD, Commission and specialists in the field more or less agree on the main probable trends in the industry up to 1980. These were briefly described in 1.1. National experts have generally confirmed this information when discussing the proposal for a Directive at a series of multilateral meetings.

The proposal takes full account of the industry's structural problems and therefore must not be considered as a simple legal framework designed to limit the granting of assistance ; it represents an essential factor in the approach to the industry.

1.5. The Directive's flexible approach

In preparing this Directive emphasis was placed on the close link between the proposed crisis measures and their period of implementation. Such measures are only warranted in cases of serious difficulty and therefore the Directive provides for possible amendments, more particularly if conditions in the industry should improve. Such steps could be taken if discussions at international level produce practical results or if market conditions improve.

2. The Directive's components

2.1. Production and sales aid (Articles 1 and 2)

The Directive does not authorize production aids in normal circumstances. This development follows from the gradual reduction of ceilings in previous Directives.

The measures concerning credit facilities for sales refer to the relevant OECD arrangement.

It must be stressed that for ship conversions, the permitted threshold may be reduced to 1 500 grt in cases of alignment to terms offered by a shipyard in a non-member country.

2.2. Investment aid (Article 4)

This Article provides for prior notification of schemes involving investment aids which have the effect of increasing production capacity. In this way, the Commission can raise objections to schemes which would be contrary to the common interest.

Moreover, the Commission must be informed every six months of all decisions on the granting of investment aids in the industry exceeding 5 million EUA. In this way, the Commission has an overall picture of investments made in the industry.

2.3. Aid to rescue and industry (Article 5)

This Article states that aid to rescue shipbuilding, ship-conversion or ship-repair undertakings may be considered compatible with the common market provided that the measure is a step towards an acceptable longer-term solution. This type of intervention is likely to prevent sudden shipyard closures having a disastrous effect on employment.

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2.4. Anti-crisis aid (Article 6)

This Article is designed to enable the Member States to take coordinated action to meet the crisis.

Under this Article, aid and notably production aid may be considered compatible with the common market provided that they are linked to the restructuring aims and are not likely to affect trading conditions to an extent contrary to the common interest.

Moreover, this Article provides for the establishment of a list of aid schemes considered compatible with the common market.

2.5. Non-discrimination clauses (Articles 7 and 9)

These Articles state that assistance granted to shipowners and measures for shipbuilding, ship-conversion and ship-repair may not discriminate against products from other Member States.

Article 8 also states that the Member States must regularly submit information on decisions to grant assistance to shipowners.

2.6. Review clauses (Article 10)

This Article specifies that the Directive may be amended if the situation improves or if international discussions produce practical results. The Directive thus follows the strategy of our OECD partners who reached agreement on adapting measures to actual crisis conditions.

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2.7. Duration of the Directive

Since this Directive provides particularly for measures to meet the crisis, it should not continue for more than three years. The situation should be examined at the end of this period to determine whether these measures are still required or possibly are inadequate.

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COUNCIL DIRECTIVE

on aid to shipbuilding

The Council of the European Communities,

1. Having regard to the Treaty establishing the European Economic Community, and in particular Articles 92(3) (d) and 113 thereof,
2. Having regard to the proposal from the Commission,
3. Having regard to the Opinion of the European Parliament,
4. Having regard to the Opinion of the Economic and Social Committee,
5. Whereas the position of shipbuilding has considerably worsened during the last few years, and Community shipyards face a general fall in demand and acute price competition on a contracted world market; whereas the result of this has been a serious reduction in orders on hand, aggravating the structural problems of the industry and indeed threatening its existence;
6. Whereas a sound and competitive shipbuilding industry is necessary to the Community and contributes to its economic and social development, as a substantial market for a range of industries, including those using advanced technology, and as an employer in a number of Community regions; whereas this is also the case with ship conversion and ship repairing;

7. Whereas if the situation in the industry were normal the continuation of aids to production would not be justified since they would serve only to protect the industry and would not bring about any solid and lasting improvement of the Community shipbuilding industry's competitiveness on the world market; whereas, however, such aids may be permitted in the present crisis provided that they are introduced on a temporary basis, to allow the industry to meet the new market conditions, and that they are progressively reduced to encourage the industry to adapt to these conditions; whereas it should be possible to grant such aid with enough flexibility to allow Community shipyards to meet particular market situations and which can be complemented in the event of a worsening crisis; whereas such aid should be subject to control to ensure that distortions of competition within the Community contrary to the common interest are avoided and that the measures are linked to the restructuring of the industry;
8. Whereas in order to resolve the present difficulties facing the industry the member countries of the OECD have approved general guidelines providing that, in order to correct the serious structural imbalance in the industry, all shipbuilding countries are to take steps to ensure that the inevitable reduction of world shipbuilding capacity is fairly distributed and proceeds with as few harmful effects as possible; whereas the Community, in applying this agreement, intends to pursue its efforts to ensure that the burden of the crisis is shared more evenly, by defining a sectoral approach on a Community level as well as on the international level particularly in the context of the OECD.

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9. Whereas Council Directive 75/432/EEC on aid to shipbuilding, which was designed to correct distortions in competition on the world market, has helped to reduce and to harmonize direct aids to shipbuilding in the Community; whereas that Directive expires on 31 December 1977;

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10. Whereas even in this difficult situation distortions in competition on the world market have been reduced through a series of undertakings concluded by the main shipbuilding countries within the framework of the OECD with the object of harmonizing export credit conditions for ships ; whereas, within this same organization, the principal shipbuilding countries have concluded a general understanding which provides for the progressive reduction of specific aid measures which distort competition in the shipbuilding industry ;
11. Whereas production structures should be adjusted to the new market conditions so that undertakings in the industry are eventually enabled to follow general economic developments and meet competition on the world market without the support of intervention by the public authorities and so that the investment efforts of the industry are compatible with the world balance between supply and demand ; whereas, in its appraisal of the aids which are concerned by the Directive, the Commission should also take account of common objectives to restore the sector's health in the Community as a whole, when such objections have been defined by the Council ;
12. Whereas, furthermore, effective action requires a solution covering all aids and interventions directly or indirectly affecting competition and trading conditions on the market for the building, conversion or repair of ships ;
13. Whereas in these circumstances aid or intervention aimed at the temporary maintenance of a shipbuilding, ship-conversion or ship-repair undertaking should be limited to that necessary if serious social problems are to be avoided ;
14. Whereas the measures in favour of national shipowners may have harmful effects on the competitive position of other shipyards or on the structure of the Member States, shipping industries ; whereas such measures should in no case discriminate against certain Community shipyards;
15. Whereas, in order to remedy a certain lack of interpenetration in the Community market, it is important that EEC shipowners address their calls for tenders as far as possible also to shipyards in the other Member States.

Has adopted this Directive :

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Article 1

For the purposes of the present Directive the following terms and expressions shall have the meanings hereunder assigned to them :

- a) "Building" means the building, in the Community, of the following metal-hulled, seagoing vessels :
- merchant vessels for the carriage of cargo and/or passengers, of not less than 150 gross registered tons;
 - fishing vessels of not less than 150 gross registered tons;
 - dredgers or ships for other works at sea of not less than 150 gross registered tons;
 - tugs of not less than 500 hp.
- b) "Conversion" means the conversion of metal hulled seagoing vessels of not less than 5,000 gross registered tons, apart from the exception mentioned in Article 2, on condition that the conversion operations entail radical alterations to the cargo plan, the hull or the propulsion system.
- c) "Repair" means the repair of the vessels referred to under (a) above.
- d) "Sale" means the sale of vessels referred to under (a) above to national shipowners, to shipowners in other Member countries and to those in third countries.

Article 2

Aids and interventions in the form of credit facilities may be considered compatible with the common market on condition they respect the conditions set out in the OECD Council Resolution of 18 July 1974, or in agreements replacing that resolution, in the following cases :

- for all sales or conversions of vessels ;
- for the conversion of vessels of not less than 1,500 gross registered tons where there is alignment with terms offered by a contractor of a country not signatory to the OECD resolution of 18 July 1974.

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Article 3

Notwithstanding the particular provisions of this Directive, the general provisions of Articles 92 and 93 of the EEC Treaty are fully applicable to the shipbuilding and ship-conversion and ship-repair industry.

Article 4

Aid to investment

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1. A Member State which intends to grant aid, in application of any aid system whatsoever, to an individual investment project in a shipyard, which would have the effect of increasing the yard's existing production capacity shall notify this plan to the Commission, pursuant to the provisions of Article 93(3) of the Treaty. Such plans cannot be put into effect before the Commission has given its agreement.

In assessing such plans, the Commission shall take particular account of any reductions in capacity in other yards in the same Member State which offset this increase and of the regional context of the investment.

2. The Member States shall inform the Commission of their decisions to grant aid to investment in shipbuilding, conversion or repair yards where the amount of such investment is in excess of five million units of account. This information shall be provided every year in the form of a table based on the specimen at Annex I : on 1st March in respect of decisions taken in the second half of the previous calendar year and on 1st September in respect of those taken in the first half of the current calendar year.

Article 5

Aids to rescue an undertaking

Aids and interventions intended as a temporary solution for the rescue of a shipbuilding, ship-conversion or ship-repair undertaking pending a solution to the problems confronting the undertaking concerned, where this aid or intervention is warranted by acute social pro-

blems may be considered compatible with the common market under this Directive. Plans for such aid shall, pursuant to Article 93(3) of the Treaty, be notified to the Commission individually and in advance. They cannot be put into effect before the Commission has given its agreement.

Article 6

Anti-crisis aids

1. Production aids and interventions may be considered compatible with the common market under this Directive if they are granted in order to alleviate the serious crisis, which is causing a substantial reduction in orders on hand in a Member State and subsequently a decrease in production. Such aids shall be progressively reduced ; they shall be granted only if linked to the realisation of industrial restructuring objectives with a view to making the industry competitive and able to operate without aid.
2. The Commission shall be given prior notification of any plan for individual intervention measures under the scheme referred to in paragraph 1 above where the project is in competition with an offer from a yard in another Member State. The aid proposal cannot be implemented before the Commission has given its agreement. The Commission shall verify that these aids do not affect trading conditions to an extent contrary to the common interest.
3. The Member States shall supply to the Commission a table, for the exclusive use of the Commission, based on the specimen at Annex II, setting out the decisions on the aid and intervention referred to in paragraph 1 and an estimate of their effects. They shall also provide a report on the realisation of the industrial restructuring objectives.

This information shall be provided on 1st March of each year in respect of decisions taken during the second half of the previous calendar year, and on 1st September in respect of those taken in the first half of the current calendar year.

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The Commission shall verify on the basis of these reports whether the efforts to implement the industrial restructuring objectives mentioned in paragraph 1 of this article are contributing effectively to the adaptation of the sector to the new conditions of the world shipbuilding market.

The Commission shall regularly draw up an overall report to serve as the basis for discussion with national experts.

4. Interventions in the form of cost-escalation insurance can be considered as being compatible with the common market under the present Directive provided that the conditions noted in paragraph 1 above are respected.
5. The aid and intervention measures listed in Annex III are considered compatible with the common market under paragraphs 1 and 4 of the present Article. The Commission shall modify the list at Annex III on the basis of the decisions it takes regarding new schemes or existing aid schemes.

Article 7

Aid for the purchase of ships shall not be granted to shipowners in a Member State in a way which discriminates against shipyards in other Member States.

A biannual report on aid granted on a selective basis to domestic shipowners shall be made by the Member States, on 1st March in respect of decisions taken in the second half of the previous calendar year and on 1st September in respect of those taken in the first half of the current calendar year.

This information shall be provided in the form of a table based on the specimen at Annex IV. The Commission shall draw up reports at regular intervals summarizing the information supplied.

These reports shall be discussed with the Member States in order to ensure that competition between shipbuilders is not distorted by such aid. These provisions are without prejudice to any future Community rules on aid to shipowners.

Article 8

In its appraisal of the national aids which are concerned by this Directive, the Commission shall take account of the common interest as defined in common objectives for restoring the industry's health when such common objectives have been defined by the Council on a proposal from the Commission.

Article 9

The Member States shall refrain from any intervention measures to promote within their national territories the building, conversion or repair of ships as defined in article 1 and the manufacture of products intended to form part of such ships other than those provided for in Articles 2 to 7 or those considered compatible with the common market under Articles 92 and 93 of the Treaty.

Article 10

The Council, acting by a qualified majority on a proposal from the Commission, shall amend this Directive as and when appropriate.

Such amendment may follow an improvement in demand or favourable developments in international contacts.

Article 11

This directive shall apply until 31 December 1980.

Article 12

This directive is addressed to the Member States.

Table of investment aid under Article 5

Description of investment	Purpose of investment(1)	Amount of investment	Form of assistance	Net grant equivalent as a percentage of the investment
(1) Where applicable, indicate whether part of an industry or regional development programme				

ANNEX II

Information to be furnished by Member States concerning the aid and intervention referred to in Article 7 (1)

Serial number	Type of vessels	Gross registered tons	Financial effect, as a percentage of the contract price (1)

(1) Grant equivalent is calculated by discounting at a rate of 8%. Where payment is by instalments, the relevant grant equivalents are shown in the table relating to the period in which the payments were made.

List of aids considered to be compatible with
the Common Market in application of Article 7 paragraph 1

- 1) Aid measure for ship-building notified to the Commission on the 22.3.77 which was the subject of the Commission's letter dated 1/7/77 advising the Dutch Government that the Commission had no objections regarding the measure.

- 2) Aid measure for ship-building notified to the Commission on the 18/2/77 which was the subject of the Commission's letter dated 1/7/77 advising the British Government that the Commission had no objections regarding the measure.

ANNEXE IV

Information on aid to shipowners, to be furnished by Member States
pursuant to Article 8

Serial number	Type of vessel	Gross registered tons	Form of aid	Financial effect as a percentage of the contract price	Country of building