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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1177/2002
of 27 June 2002
concerning a temporary defensive mechanism to shipbuilding

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 87(3)(e), 89 and 133 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the Opinion of the European Parliament [2],

Whereas:

(1) The European Commission and the Government of the Republic of Korea, hereinafter 'Korea', signed the Agreed Minutes relating to world shipbuilding on 22 June 2000, hereinafter 'the Agreed Minutes', with the aim of restoring fair and transparent competitive conditions. However, the commitments under the Agreed Minutes, notably the commitment of ensuring an effective price surveillance mechanism, have not been effectively implemented by the Korean side and therefore a satisfactory result has not been obtained.

(2) Operating aid has not been effective in ensuring that the European shipbuilding industry is not injured by competition not respecting normal competitive conditions in the shipbuilding market. Accordingly, as follows from Article 3 of Council Regulation (EC) No 1540/98 of 29 June 1998 establishing new rules on aid to shipbuilding [3], contract-related operating aid to shipbuilding may not be granted in respect of contracts agreed as from 1 January 2001.

(3) However, as an exceptional and temporary measure, and in order to assist Community shipyards in those segments that have suffered adverse effects in the form of material injury and serious prejudice caused by unfair Korean competition, a temporary defensive mechanism should be authorised for limited market segments and for a short and limited period only. Regulation (EC) No 1540/98 should apply *mutatis mutandis*.

(4) The situation in the Community shipbuilding industry is heterogeneous. According to the Commission's Fourth and Fifth Reports on the Situation in World Shipbuilding, approximately half of compensated gross tonnage produced in Community shipyards concerns the market segments in which Community shipyards are in a strong position on the international market. However, in other segments, there is evidence that Community shipyards have suffered adverse effects in the form of material injury and serious prejudice caused by unfair Korean competition. Therefore, contract-related temporary support may be authorised in certain circumstances in those segments, namely container ships and product and chemical tankers.

(5) Considering the exceptional development in the sector of LNG carriers, the Commission will continue to monitor this market. Contract-related temporary support may be authorised in this sector if the Commission confirms, on the basis of investigations covering the period of 2002, that the Community industry has suffered material injury and serious prejudice in this sector caused by unfair Korean practices to the same extent as has been found for container ships and product and chemical tankers.

(6) Support of 6 % of contract value before aid may be authorised in order to effectively enable Community shipyards to overcome unfair Korean competition.

(7) The temporary defensive mechanism should only be authorised after the Community initiates dispute settlement proceedings against Korea, by requesting consultations with Korea, in accordance with the World Trade Organisation's Understanding on the Rules and Procedures for the Settlement of Disputes and may no longer be authorised if these dispute settlement proceedings are resolved, or suspended on the grounds that the Community considers that the Agreed Minutes have been effectively implemented,

[1] OJ C 304 E, 30.10.2001, p. 208.
[2] OJ C 140 E, 13.6.2002, p. 380.
[3] OJ L 202, 18.7.1998, p. 1.