COUNCIL DIRECTIVE

of 28 April 1981

on aid to shipbuilding

(81/363/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Having regard to the opinion of the Economic and Social Committee [2],

Whereas the situation of the shipbuilding industry has continued to be unfavourable during the period of operation of Council Directive 78/338/EEC of 4 April 1978 on aid to shipbuilding [3]; whereas this situation has in particular taken the form of an imbalance between the production capacity of the industry and demand, leading to low price levels;

Whereas shipbuilding undertakings in the Community have therefore been obliged to draw frequently on their financial reserves to take orders, thus reducing their chance of implementing the structural adaptations needed to face the prevailing market conditions in the longer term;

Whereas the Council resolution of 19 September 1978 concerning the reorganization of the shipbuilding industry [4] stressed the need to maintain within the Community a healthy and competitive shipbuilding industry whose scale of activity should be consistent with the size of the Community's seaborne trade and respect its economic, social and strategic importance;

Whereas a competitive shipbuilding industry is of vital interest to the Community and contributes to its economic and social development by providing a substantial market for a range of industries, including those using advanced technology; whereas it contributes also to the maintenance of employment in a number of regions, including some which are already suffering a high rate of unemployment; whereas this is also true of ship conversion and ship repair;

Whereas, if the situation in the industry were normal, the continuation of operating aid could not be justified, since, its effect being mainly that of conservation, it is not likely to bring about any lasting improvement in the Community shipbuilding industry's competitiveness;

Whereas, however, the continuation of the crisis has serious consequences for the shipbuilding industry which may make the immediate abolition of such aid impossible; whereas it is necessary to allow adaptation of the structures of the industry to the prevailing market conditions to take place gradually;

Whereas, to this end, production aid should be temporary and diminishing, so as to encourage the undertakings to make the necessary effort to become competitive, at least in time; whereas such aid should be subject to continuous control in order to avoid distortions of competition within the Community; whereas the granting of such aid should be linked to the achievement of restructuring objectives; whereas, in this context, the restructuring effort is not confined to reduction of production, employment and production capacity, but includes all other measures enabling the shipbuilding industry to become competitive; whereas in assessing the reduction of production capacity it is appropriate to take account of the effort already made;

Whereas, in order to deal with the present difficulties facing the industry, and in particular the distortions of competition which are occuring, most member countries of the OECD have helped to remedy the serious structural disequilibrium by reducing world shipbuilding production capacity; whereas this reduction in capacity should be achieved in the least damaging and most equitable way possible; whereas the member countries have adapted certain conditions laid down by the OECD Council resolu-

(1) OJ No C 28, 9. 2. 1981, p. 35.
(2) OJ No C 353, 31. 12. 1980, p. 25.
(3) OJ No L 98, 11. 4. 1978, p. 19.
(4) OJ No C 229, 27. 9. 1978, p. 1.

tion on credit facilities, in order to bring the resolution more into line with the current trend of the market;

Whereas Directive 78/338/EEC has helped to reduce distortion of competition between Member States; whereas this Directive has also enabled the Community to adopt a common position in discussions with other shipbuilding countries;

Whereas production structures should be progressively adjusted to the new market conditions in such a way that undertakings in the industry may become capable of following general economic developments and of meeting competition on the world market without the support of intervention by public authorities; whereas this progressive adjustment of production structures should be accompanied by measures to facilitate adjustments in employment and on a social level;

Whereas, furthermore, effective action to eliminate distortions of competition requires a solution covering all aid directly or indirectly affecting competition and trading conditions on the shipbuilding, ship-conversion and ship-repair market;

Whereas it is necessary to define aid intended as a temporary solution for the rescue of a shipbuilding, ship conversion or ship repair undertaking in order to deal with acute social problems;

Whereas, in view of the continuing crisis in the shipbuilding industry, it is appropriate to provide for aid to facilitate the conversion or the partial or total cessation of shipbuilding activities under the most equitable social conditions; whereas, to this end, Member States and the Commission will continue to cooperate in order to deal as far as possible with any social problems and regional consequences which may arise from the restructuring of the shipbuilding and ship-repair industries; whereas Member States will endeavour to inform the Commission as soon as possible in particular of plans for the conversion and partial or total cessation of shipbuilding and ship-repair yards;

Whereas aid granted to national shipowners for the acquisition of new ships should not lead to distortions of competition between national shipyards and those of other Member States;

Whereas any aid elements contained in the financing measures taken by Member States in respect of the shipbuilding or ship-repair undertakings which they directly or indirectly control should also meet the requirements laid down under this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of Articles 3 to 10 the following definitions shall apply:

(a) *'shipbuilding':*

means the building in the Community of the following metal-hulled sea-going vessels:

— merchant ships for the carriage of passengers and/or cargo, of not less than 150 gross registered tons,

— fishing vessels of not less than 150 gross registered tons;

— dredgers or ships for other work at sea, of not less than 150 gross registered tons, excluding drilling platforms,

— tugs of not less than 365 kW;

(b) *'ship conversion':*

means the conversion of metal-hulled sea-going vessels of not less than 1 000 gross registered tons, on condition that conversion operations entail radical alterations to the cargo plan, the hull or the propulsion system;

(c) *'ship repair':*

means the repair of the vessels referred to under (a) above;

(d) *'sale':*

means all sales of vessels referred to under (a) above;

(e) *'aid':*

means State aid within the meaning of Articles 92 and 93 of the Treaty, including not only aid granted by the State itself but also that granted by regional or local authorities and any aid elements contained in the financing measures taken by Member States in respect of the shipbuilding or ship-repair undertakings which they directly or indirectly control and which do not count as the provision of risk capital according to standard company practice in a market economy.

Such aid may be considered compatible with the common market provided that it complies with the criteria for derogation contained in this Directive.