II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION
of 22 July 2002
amending Decision 2001/76/EC in respect of export credits for ships

(2002/634/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Community is a party to the Arrangement on guidelines for officially supported export credits concluded within the OECD, hereinafter referred to as 'the Arrangement'.

(2) By virtue of Council Decision 2001/76/EC of 22 December 2000 replacing the Decision of 4 April 1978 on the application of certain guidelines in the field of officially supported export credits [1], the Arrangement on guidelines for officially supported export credits, which is annexed to the Decision, applies in the Community.

(3) The participants in the Arrangement, in conjunction with the participants in OECD Working Party No 6 on shipbuilding, have decided to update the specific guidelines on export credits applicable to this sector, as laid down in Annex I to the Arrangement. The participants in the Arrangement have, in the framework of the OECD, approved the new sector Understanding on export credits for ships.

(4) The Arrangement continues to apply to ships not covered by the sector Understanding, and also to ships that are covered insofar as the Understanding does not specifically provide otherwise.

(5) Decision 2001/76/EC should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2001/76/EC is hereby amended as follows:

1. Article 3(a) shall be replaced by the following:

   '(a) Ships

   The Arrangement shall apply to ships not covered by the Sector Understanding on Export Credits for Ships, which has been adopted by all Participants to the Arrangement as an Annex to the Arrangement (Annex I). For the Participants to the Sector Understanding, the Arrangement shall apply to ships covered by that Understanding, except that where a corresponding provision exists in the Sector Understanding, which complements the Arrangement, the Sector Understanding shall prevail.';

2. Article 49(a)(4) shall be deleted;

3. Annex I shall be replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 22 July 2002.

For the Council

The President

P. S. MØLLER

[1] OJ L 32, 2.2.2001, p. 1.

ANNEX

'ANNEX I

SECTOR UNDERSTANDING ON EXPORT CREDITS FOR SHIPS

CHAPTER I

SCOPE OF THE SECTOR UNDERSTANDING

1. **Participation**

The Participants to the Sector Understanding are: Australia, the European Community (which includes the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom), Japan, Korea, Norway, Poland and the Slovak Republic.

2. **Scope of application**

This Sector Understanding, which complements the Arrangement, sets out specific guidelines for officially supported export credits relating to export contracts of:

2.1. Any new sea-going vessel of 100 gt and above used for the transportation of goods or persons, or for the performance of a specialised service (for example, fishing vessels, fish factory ships, ice breakers and as dredgers, that present in a permanent way by their means of propulsion and direction (steering) all the characteristics of self-navigability in the high sea), tugs of 365 kW and over and to unfinished shells of ships that are afloat and mobile. The Sector Understanding does not cover military vessels. Floating docks and mobile offshore units are not covered by the Sector Understanding, but should problems arise in connection with export credits for such structures, the Participants to the Sector Understanding (hereinafter the Participants), after consideration of substantiated requests by any Participant, may decide that they shall be covered.

2.2. Any conversion of a ship. Ship conversion means any conversion of sea-going vessels of more than 1 000 gt on condition that conversion operations entail radical alterations to the cargo plan, the hull or the propulsion system.

2.3. (i) Although hovercraft-type vessels are not included in the Sector Understanding, Participants are allowed to grant export credits for hovercraft vessels on equivalent conditions to those prevailing in the Sector Understanding. They commit themselves to apply this possibility moderately and not to grant such credit conditions to hovercraft vessels in cases where it is established that no competition is offered under the conditions of the Sector Understanding.

(ii) In the Sector Understanding, the term "hovercraft" is defined as follows: an amphibious vehicle of at least 100 tons designed to be supported wholly by air expelled from the vehicle forming a plenum contained within a flexible skirt around the periphery of the vehicle and the ground or water surface beneath the vehicle, and capable of being propelled and controlled by aircrews or ducted air from fans or similar devices.

(iii) It is understood that the granting of export credits at conditions equivalent to those prevailing in this Sector Understanding should be limited to those hovercraft vessels used on maritime routes and non-land routes, except for reaching terminal facilities standing at a maximum distance of one kilometre from the water.

CHAPTER II

PROVISIONS FOR EXPORT CREDITS AND TIED AID

3. **Maximum repayment term**

The maximum repayment term, irrespective of country classification, is 12 years after delivery.

4. **Cash payments**

The Participants shall require a minimum cash payment of 20 % of the contract price by delivery.

5. **Repayment of principal**

The principal sum of an export credit shall be repaid in equal instalments at regular intervals of normally six months and a maximum of 12 months.

6. **Minimum premium**

The provisions of the Arrangement in relation to minimum premium benchmarks shall not be applied until such provisions have been further reviewed by the Participants to this Sector Understanding.

7. **Aid**

Any Participant desiring to provide aid must, in addition to the provisions of the Arrangement, confirm that the ship is not operated under an open registry during the repayment term and that appropriate assurance has been obtained that the ultimate owner resides in the receiving country, is not a non-operational subsidiary of a foreign interest and has undertaken not to sell the ship without his government's approval.

CHAPTER III

PROCEDURES

8. **Notification**

For the purpose of transparency each Participant shall, in addition to the provisions of the Arrangement and the IBRD/Berne Union/OECD Creditor Reporting System, provide annually information on its system for the provision of official support and of the means of implementation of this Sector Understanding, including the schemes in force.

9. **Review**

(a) The Sector Understanding shall be reviewed annually or upon request by any Participant within the context of the OECD Working Party on Shipbuilding, and a report made to the Participants to the Arrangement.

(b) To facilitate coherence and consistency between the Arrangement and this Sector Understanding and taking into account the nature of the shipbuilding industry, the Participants to this Sector Understanding and to the Arrangement will consult and coordinate as appropriate.

(c) Upon a decision by the Participants to the Arrangement to change the Arrangement, the Participants to this Sector Understanding (the Participants) will examine such a decision and consider its relevance to this Sector Understanding. Pending such consideration the amendments to the Arrangement will not apply to this Sector Understanding. In case the Participants can accept the amendments to the Arrangement they shall report this in writing to the Participants to the Arrangement. In case the Participants cannot accept the amendments to the Arrangement as far as their application to shipbuilding is concerned they shall inform the Participants to the Arrangement of their objections and enter into consultations with them with a view to seeking a resolution of the issues. In case no agreement can be reached between the two groups, the views of the Participants as regards the application of the amendments to shipbuilding shall prevail.

(d) Upon entry into force of the "Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry" this Sector Understanding shall cease to apply for those Participants who are legally required to apply the 1994 Understanding on Export Credits for Ships (C/WP6(94)6). Such Participants shall work for an immediate review to bring the 1994 Understanding in accordance with this Sector Understanding.

Attachment

COMMITMENTS FOR FUTURE WORK

In addition to the future work of the Arrangement, the Participants to this Sector Understanding agree:

(a) to develop an illustrative list of types of ships which are generally considered non-commercially viable, taking into account the disciplines on tied aid set out in the Arrangement;

(b) to review the provisions of the Arrangement in relation to minimum premium benchmarks with a view to incorporating them into this Sector Understanding;

(c) to discuss, subject to the developments in relevant international negotiations, the inclusion of other disciplines on minimum interest rates including a special CIRR and floating rates;

(d) to discuss the applicability of yearly instalments of repayment of principal.'