COMMISSION

COMMISSION DECISION
of 30 October 2002
on the State aid granted by Italy to Industrie Navali Meccaniche Affini SpA (INMA)

(notified under document number C(2002) 4039)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2003/55/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2),

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1],

Whereas:

I. PROCEDURE

(1) On 20 July 1999 the Commission closed, with a negative final decision requiring repayment of the aid [2], the proceeding it had initiated under Article 88(2) of the EC Treaty on 19 January 1999 in respect of the aid granted by Italy to the shipyard Industrie Navali Meccaniche Affini SpA (hereinafter 'INMA'). On appeal by the recipient, the Commission decision was annulled by the Court of First Instance on 26 February 2002 [3]. By letter of 31 July 2002 Italy supplied further information.

II. DESCRIPTION

(2) INMA, located in La Spezia, initially received from Italy financial aid in the form of guarantees and compensation for losses through the public holding company Italia Investimenti SpA (hereinafter 'Itainvest'), which is also INMA's sole shareholder.

(3) Between 1987 and 1988 INMA received a number of aid grants from the Ministry for the Merchant Navy and subsequently the Ministry for Transport and Navigation under Laws Nos 599/82, 111/85, 234/89 and 132/94. Between 1996 and 1998 Itainvest granted several guarantees to INMA, especially for vessels ordered by the shipowners Stolt Nielsen, Tirrenia, Pugliola and Corsica Ferries. By the end of 1996 INMA's losses totalled ITL 21,4 billion. The shareholders' meeting on 13 November 1997 decided to cover the losses, on the one hand with ITL 4,68 billion of the firm's reserves and on the other with a capital contribution from Itainvest of ITL 16,7 billion. The shareholders' meeting of 24 March 1998 found that INMA's accounts, closed at 30 November 1997, already showed losses of ITL 81,89 billion. These were covered by Itainvest. At the shareholders' meeting of 23 June 1998 INMA's accounts revealed total losses for 1997 of ITL 103,7 billion. Itainvest covered the losses not yet provided for, i.e. ITL 21,81 billion.

(4) On 6 November 1998 INMA went into liquidation and the liquidator was authorised to complete orders underway in the yard. The orders were thus finished and the vessels delivered to their owners. No new orders have been placed with the yard since it entered into liquidation which is why, once the last vessel was delivered, the yard ceased to engage in any economic activity.

(5) The State aid which the Commission decided was unlawful by negative decision of 20 July 1999 formed part of the firm's residual assets. Apart from the administrative costs connected with the winding-up, Itainvest, which had initially granted the aid, is the sole creditor in the liquidation.

[1] OJ C 63, 5.3.1999, p. 2.
[2] OJ L 83, 4.4.2000, p. 21.
[3] Judgment of the Court of First Instance of 26 February 2002, Case T-323/99: *Industrie Navali Meccaniche Affini SpA (INMA) and Italia Investimenti SpA* v *Commission of the European Communities*, ([2002] ECR II-545).

(6) On 12 October 1999, following the publication of a call for expressions of interest in the acquisition of the shipyard in five national newspapers and in the European trade press, including Lloyds List, the liquidator sold INMA to the group Rimorchiatori Panfilo&C Srl (San Marco yard), which had put in the highest bid. The price paid for INMA was EUR 8 million, far more than the EUR 1,1 million estimated by an independent expert. On 17 November 2000, INMA was removed from the public register of shipbuilders.

III. **CONCLUSIONS**

(7) The Commission notes that the aid recipient has ceased operating. Furthermore, during the winding-up procedure, in which the granting body, Itainvest, was the debtor's only real creditor and its sole shareholder, a request was made for the recovery of all potentially incompatible State aid.

(8) The Commission therefore concludes that all the potential distortions of competition due to the aid granted by Italy to INMA have been removed.

(9) The formal investigation initiated under Article 88(2) of the Treaty in respect of the measure in question thus no longer serves any purpose,

HAS ADOPTED THIS DECISION:

Article 1

The proceeding initiated under Article 88(2) of the Treaty on 19 January 1999 in respect of Industrie Navali Meccaniche Affini SpA is hereby closed.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 30 October 2002.

For the Commission

Mario MONTI

Member of the Commission