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**OECD INSTRUMENT REVIEW (INCLUDING POSSIBLE RELAUNCH OF  
NEGOTIATIONS OF A GLOBAL SHIPBUILDING AGREEMENT)**

***SEA EUROPE PRELIMINARY POSITION***

**1. INTRODUCTION**

In December 2016, the OECD Council Shipbuilding Working Party 6 (hereinafter referred to as “WP6”) agreed to launch a thorough revision of the two 1983 OECD instruments, notably the “Revised General Arrangement for the Progressive Removal of Obstacles to Normal Competitive Conditions in the Shipbuilding Industry”, and the “Revised General Guidelines for Governmental Policies in the Shipbuilding Industry”. The afore-mentioned revision includes the possibility to re-launch the negotiations of a global shipbuilding agreement.

SEA Europe – the European Shipyards’ and Maritime Equipment Association – welcomes the opportunity to share the following preliminary comments in relation to the OECD instrument review process. The present document is submitted in response to the OECD Secretariat’s request for initial input from WP6 delegates following the discussions at the WP6 meeting of 18-19 April 2017.

SEA Europe looks forward to contributing to this important process and plans, therefore, to submit additional comments with regard some of the elements below identified following more in-depth internal consideration and consultation with its Members.

**2. THE CONTEXT**

The full value chain of the European shipbuilding industry with all its different products and services, including its extensive supply chain, operates in a truly global market. As shipbuilding is considered of strategic importance in some third countries, large volumes and various forms of state support have a long track record and are causing distortions to normal market functions.

Currently, shipping and shipbuilding are experiencing a particularly long downward cycle phase. The poor earning situation of shipping companies has brought down the investment

capacity and increased price pressure in the market. To safeguard continuation of operations some third country yards are desperate enough to accept again orders below cost.

It is a fact that shipbuilding operates under a unique absence of trade rules. The specific nature of the product and its market prevent WTO rules to be applied in an effective way. Long running efforts to establish a legally binding global regime under the OECD have so far not succeeded. The 1994 Agreement was never ratified and the latest attempt to conclude a new shipbuilding agreement was, as known, abandoned in 2010.

However, it is worth highlighting that with the shipbuilding market currently suffering its worst downturn over the last decades, market conditions have totally changed since then, and it can be reasonably assumed that appetite for change may have now grown sufficiently. There is indeed a growing awareness nowadays amongst all main global shipbuilding and shipping market players that cut-throat competition of shipyards increases instability, volatility, speculation and overcapacity. Hence, international rules need to be established to ensure that past mistakes are not repeated.

### 3. KEY ELEMENTS OF SEA EUROPE'S PRELIMINARY POSITION

- **General:** SEA Europe strongly supports the relaunch of negotiations, under the aegis of the OECD, of an international instrument aimed at establishing effective rules that could restore level playing field in global shipbuilding. The negotiations shall review and address all market distorting factors, in particular support measures, unfair pricing practices adopted on a systematic basis and other practices which distort normal competitive conditions in the world shipbuilding industry, as well as mechanisms to deal with these.
- **Legal format:** SEA Europe support discussions to focus on developing a **legal binding instrument**, preferably in the form of a **global shipbuilding agreement**, which includes a dispute settlement and preferably also a retaliatory mechanism if legal obligations are violated.
- **Participation of Non-OECD countries:** SEA Europe strongly believes that the most appropriate forum to negotiate such an agreement would be the OECD. However, an instrument which would only apply to OECD members will most likely not be able to ensure the fulfilment of the ultimate objective of creating restoring competitive conditions in shipbuilding. It is vital that **China is included in these discussions**, due to its status as the world's biggest shipbuilder and due to its status as a non-market economy.
- **Objectives of the instrument:** SEA Europe holds the view that the removal of barriers to normal competitive conditions as well as access to address overcapacity and structural adjustments should be the key objectives. The instrument should contain both **anti-subsidy provisions** and **targeted mechanisms tackling the systematic adoption of**

**unfair, distortive pricing practices** in the shipbuilding market which could operate in support of the afore-mentioned anti-subsidy discipline. SEA Europe Members representing national shipbuilding industries directly affected by such developments have expressed the view that recent extreme cases of indebtedness and consequent bail-outs were mainly the result of lasting unsustainable pricing policies; hence global rules would be urgently needed to prevent the initial cause for the accumulation of debts, i.e. **prices below costs**. It is worth recalling that the existing antidumping rules (i.e. WTO Antidumping Code) do not effectively address distorting pricing practices in the shipbuilding sector, amongst others due to the fact that ships are rarely produced in (large) series and are rarely imported in the sense known for most other products. The inclusion of targeted provisions tackling unfair pricing practices could therefore facilitate the application of one of the core pillar of the WTO system to the shipbuilding industry. Moreover, from today's perspective, such mechanism would have notably contributed to a more balanced market and reduced the impact of purely speculative ordering.

- **Scope of “obstacles” to normal competitive conditions**: the scope of the new instrument should be as broad as possible with regard to the list of “obstacles” represented by government intervention specifically targeted to shipbuilding. More specifically, it should cover public support measures of any kind (direct and indirect) and at any level (central, local, public owned agencies, banks/pension funds etc). SEA Europe would support an approach whereby **certain support measures (to be further defined) may be nevertheless allowed under specified conditions**. These may include by way of example the following types of measures: export and home credits consistent with the OECD SSU rules, certain RDI activities, assistance to workers affected by closure of shipyards, and restructuring support combined with production limitations. Perhaps, an option could be to consider adopting a combined system, i.e. **establishment of general criteria together with an illustrative list**. In SEA Europe's view, the rules included in the instrument however would not necessarily need to address all the “obstacles” to normal competitive conditions, but rather e.g. let a future IWG export credit agreement (or OECD SSU rules) govern the ability for governments to grant export finance to shipbuilding, or let the WTO Technical Barriers to Trade Agreement restrict the use of technical standards, which might create trade distortion.
- **Transparency**: SEA Europe holds the view that more **robust transparency, monitoring and reporting obligations are needed**. Transparency in shipbuilding markets is essential and therefore a future shipbuilding instrument should include provisions which require federal and sub-federal governments or state owned authorities/institutions to 1) publish any relevant information concerning their programs, support measures, technical regulations, which might have an (non-competitive) impact on the shipbuilding industry, 2) report any types of financial transactions directed to the shipbuilding industry.

#### **4. CONCLUSIONS**

Achieving a healthy and balanced market, by tackling the sources of the current challenges through internationally agreed rules, is and should be a shared interest of the global shipping and shipbuilding community. Given today's dramatic situation in the world shipbuilding and shipping markets, pursuing such an important goal is of vital importance which can no longer be procrastinated.

SEA Europe stands ready to play a constructive role in the forthcoming process, and remains available for any further information or clarification that may be needed at this stage.

The above list of considerations constitutes a preliminary contribution which will be supplemented as necessary in the course of the upcoming discussions.

DB, 22 May 2017

#### **About SEA Europe:**

*SEA Europe, the European Ships and Maritime Equipment Association, is the voice of the European maritime technology industry. SEA Europe promotes and supports European business enterprises which are involved in the building, construction, maintenance and repair of all types of ships and other relevant maritime structures, including the complete supply chain of systems, equipment and services. The shipbuilding, maritime equipment and ship maintenance, repair & conversion (SMRC) industry employs more than 900,000 people (directly & indirectly) and has a total annual average turnover of around 91 bn €.*

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