

English edition

Legislation

Contents

I    *Acts whose publication is obligatory*

.....

II    *Acts whose publication is not obligatory*

**Commission**

83/391/EEC, ECSC:

- \* Commission Decision of 29 June 1983 concerning the aids that the Belgian Government proposes to grant to the steel industry ..... 1**

83/392/ECSC:

- \* Commission Decision of 29 June 1983 concerning the aids that the Government of the Federal Republic of Germany proposes to grant to the steel industry ..... 8**

83/393/ECSC:

- \* Commission Decision of 29 June 1983 concerning the aids that the French Government proposes to grant to Sacilor and Usinor ..... 14**

83/394/ECSC:

- \* Commission Decision of 29 June 1983 concerning the aids that the Hellenic Republic proposes to grant to the steel industry ..... 18**

83/395/ECSC:

- \* Commission Decision of 29 June 1983 concerning the aids that the Irish Government proposes to grant to Irish Steel Ltd ..... 21**

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.  
The titles of all other Acts are printed in bold type and preceded by an asterisk.

Contents (continued)

83/396/ECSC:

- \* Commission Decision of 29 June 1983 concerning the aids that the Italian Government proposes to grant to certain steel undertakings ..... 24

83/397/EEC, ECSC:

- \* Commission Decision of 29 June 1983 concerning the aids that the Luxembourg Government proposes to grant to the steel industry ..... 29

83/398/ECSC:

- \* Commission Decision of 29 June 1983 concerning the aids that the Netherlands Government proposes to grant to the steel industry ..... 33

83/399/ECSC:

- \* Commission Decision of 29 June 1983 concerning the aids that the United Kingdom Government proposes to grant to the steel industry ..... 36

## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 29 June 1983

concerning the aids that the Belgian Government proposes to grant to the steel industry

*(Only the French and Dutch texts are authentic)*

(83/391/EEC, ECSC)

THE COMMISSION OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 93 (2) thereof,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 257/80/ECSC of 1 February 1980 establishing Community rules for specific aids to the steel industry <sup>(1)</sup>,

Having regard to Commission Decision No 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry <sup>(2)</sup>, and in particular Article 8 (3) thereof,

Having given notice, in accordance with Article 93 (2) of the EEC Treaty and Article 8 (3) of Decision No 2320/81/ECSC, to the parties concerned to submit their comments <sup>(3)</sup>, and having regard to those comments,

Whereas:

<sup>(1)</sup> OJ No L 29, 6. 2. 1980, p. 5.

<sup>(2)</sup> OJ No L 228, 13. 8. 1981, p. 14.

<sup>(3)</sup> OJ No C 350, 31. 12. 1980, No C 113, 15. 5. 1981, No C 8, 14. 1. 1982, No C 57, 5. 3. 1982, No C 109, 30. 4. 1982, No C 147, 11. 6. 1982, No C 282, 27. 10. 1982, No C 57, 2. 3. 1983.

## I

By letter dated 4 November 1980, the Belgian Government notified the Commission of its intention to grant aids to its steel industry. After an initial scrutiny of the aids for compatibility with the criteria laid down in Articles 2, 3, 4 and 5 of Decision No 257/80/ECSC, on the basis of the information supplied to it, the Commission concluded that the restructuring programmes of the Belgian steel firms would result in a net increase in their capacity. It therefore initiated in respect of the non-specific aids in question the procedure provided for in Article 93 (2) of the EEC Treaty, and on 19 December 1980 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By letter dated 10 February 1981, the Belgian Government notified the Commission of its intention to grant emergency aids to steel undertakings. After an initial scrutiny of the aids for compatibility with the criteria laid down in Article 5 of Decision No 257/80/ECSC, on the basis of the information supplied to it, the Commission concluded that in view of the recurrent nature of this type of support, the aids in question were equivalent to aids for continued operation, and that the Belgian restructuring plan did not justify such aid. It therefore initiated in respect of the non-specific aids concerned the procedure provided for in Article 93 (2) of the EEC Treaty, and on 13 April 1981 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By letter dated 4 June 1981, supplemented by letter dated 14 August 1981 and by a detailed paper submitted on 2 October 1981, the Belgian Government notified the

Commission of its intention to grant aid to Cockerill-Sambre as part of the restructuring of the undertaking. After an initial scrutiny of the aids for compatibility with the criteria laid down in Articles 2 to 5 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that the restructuring plan was unlikely either to restore the firm's viability or to lead to the level of capacity utilization and hence productivity necessary for it to regain competitiveness. It therefore initiated in respect of the aids proposed the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC, and on 26 November 1981 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By letter dated 28 October 1981, the Belgian Government informed the Commission of its intention to grant aid for investment to the firm ALZ. After an initial scrutiny of the proposed aid for compatibility with the criteria laid down in Articles 2 and 3 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that the firm's restructuring plan did not involve any capacity reductions to justify the aid. It therefore initiated in respect of the aid the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC, and on 23 December 1981 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By letter dated 28 December 1981, the Belgian Government notified the Commission of its intention to grant aids to Laminoirs de Saint Éloi. After an initial scrutiny of the notification in the light of Articles 2, 3 and 5 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that no capacity reductions were proposed to justify the aid, whereas the high intensity of the aid would require a special restructuring effort to justify it. It therefore initiated in respect of the aids the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC, and on 26 February 1982 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By letter dated 8 February 1982, the Belgian Government notified the Commission of aids planned under a draft agreement between the Government and private banks on the financing of the firm Cockerill-Sambre. After an initial scrutiny of the notification in the light of the criteria laid down in Articles 2 and 5 of Decision No 2320/81/ECSC, the Commission noted that the agreement involved the grant of new aid and that no justification was given for this aid. It therefore initiated in respect of the aid the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC, and on

8 April 1982 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By letter dated 11 August 1982, the Belgian Government notified the Commission of its intention to grant aids for investment to three steel firms. After an initial scrutiny of the notification in the light of the criteria laid down in Articles 2 and 3 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that no capacity reduction was proposed to justify the aids. It therefore initiated in respect of them the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC, and on 11 October 1982 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By letter dated 21 September 1982, the Belgian Government notified the Commission of its intention to grant aid for continued operation to Laminoirs d'Anvers. After an initial scrutiny of the notification in the light of Articles 2 and 5 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that the aids were not justified since the capacity reduction resulting from the planned closure of Laminoirs d'Anvers had already been adduced to justify clearance of a tranche of aid to ALZ. It therefore initiated in respect of the aid the procedure provided for by Article 8 (3) of Decision No 2320/81/ECSC, and on 25 November 1982 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By letter dated 21 September 1982, the Belgian Government notified the Commission of its intention to grant aid for investment to Sidmar. After an initial scrutiny of the notification in the light of the criteria laid down in Articles 2 and 3 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that no capacity reduction was proposed to justify granting the aid. It therefore initiated in respect of the aid the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC, and on 25 November 1982 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By two letters dated 30 September 1982, the Belgian Government notified the Commission of its new plans for aid for investment to Cockerill-Sambre and Phénix Works and for aid for continued operation to Cockerill-Sambre. After an initial scrutiny of the notification in the light of the criteria laid down in Articles 2, 3 and 5 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission

concluded that no new reduction in capacity was offered to justify clearance of the aid. It therefore initiated in respect of the aid the procedure provided for in Article 8(3) of Decision No 2320/81/ECSC, and on 25 November 1982 sent a letter constituting formal notice to the Belgian Government to submit its comments.

By letter dated 30 September 1982, the Belgian Government notified the Commission of further aid to Usines Gustave Boël, Fabrique de Fer de Charleroi and Forges de Clabecq. After an initial scrutiny of this notification in the light of the criteria laid down in Articles 2, 3 and 5 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that no capacity reduction was offered to justify the aids. It initiated in respect of them the procedure provided for in Article 8(3) of Decision No 2320/81/ECSC, and on 25 November 1982 sent two letters constituting formal notice to the Belgian Government to submit its comments.

## II

In its replies to the Commission's letters and in the correspondence which followed the opening of the procedures, the Belgian Government offered certain measures to justify the proposed aids, in particular reductions of 2,134 million tonnes of capacity for hot-rolled products for Cockerill-Sambre and 152 000 tonnes for two other firms. On the basis of these capacity reductions, the Commission was able to approve part of the aids notified. The Belgian Government also put forward the following arguments *inter alia*:

- in relation to Cockerill-Sambre, the size of the effort made by the firm to reduce its production capacity and the social costs and regional problems this involved,
- in relation to the other firms, the fact that they had not increased their capacity and that some of them were competitive so that their capacity would help towards the industry's recovery.

In their replies, six Member States, three federations of undertakings of the sector and three individual firms were in general agreement with the conclusions of the Commission.

In letters dated 27 and 29 June 1983, the Belgian Government clarified its intentions regarding aid and the restructuring of the industry.

## III

The aids that are still the subject of procedures are as follows:

### *Cockerill-Sambre*

#### Investment aid

- tax concessions (exemption from property taxes for three years and availability of accelerated depreciation) for all the investment programmes,
- purchase of convertible participating conditional bonds and grant of State guarantees and interest subsidies worth a total of Bfrs 11 250 million,
- purchase of a State shareholding of Bfrs 150 million and of a junior-ranking bond of the same amount.

#### Aid for continued operation

- guarantees for a total of Bfrs 15 600 million,
- coverage of losses and rebuilding of working capital by subscription of new capital or purchase of convertible participating conditional bonds to a total value of Bfrs 18 100 million and by repayable advances worth Bfrs 5 000 million,
- conversion of Bfrs 51 200 million of debts into capital.

### *Phénix Works*

aid for investment by purchase of a State shareholding of Bfrs 116 million and application of the Economic Expansion Act;

### *Forges de Clabecq*

interest subsidies of Bfrs 102 million for minor investments;

aid for continued operation: purchase of convertible participating conditional bonds worth Bfrs 1 253 million and conversion of debts of Bfrs 1 500 million;

### *Laminoirs de Longtain*

coverage of losses by subscription of convertible participating conditional bonds worth Bfrs 66,5 million;

*Laminoirs de Saint-Éloi*

aid for investment under the Economic Expansion Act and for continued operation by coverage of losses (Bfrs 101 million of convertible participating conditional bonds) and defrayal of interest on a long-term loan;

*Usines Gustave Boël*

aid under the Economic Expansion Act to three investment projects;

*Fabrique de Fer de Charleroi*

aid under the Economic Expansion Act to three investment projects;

*Sidmar*

possible aid elements contained in the purchase of a State shareholding of Bfrs 3 500 million and the conversion of Bfrs 11 170 million of debts under moratorium into capital or any other stable medium;

*ALZ*

possible aid elements contained in the purchase of a State shareholding of Bfrs 1 400 million and in the conversion of Bfrs 1 161 million of debts under moratorium into capital or any other stable medium.

The aids under the Economic Expansion Act include guarantees on possible ECSC loans.

The Belgian Government has not yet proposed new reductions in capacity for hot-rolled products big enough to justify the above aids.

## IV

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a systematic and specific restructuring programme covering the different aspects of restructuring, which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. In the present case, the viability of some of the Belgian undertakings is still in doubt.

The second indent of Article 2 (1) provides that the restructuring programme must result in an overall reduction in the production capacity of the aided undertaking or group of undertakings. The restructuring programmes of most of the firms referred to above do not involve any such reduction and the Belgian Government has not proposed to the Commission capacity reductions by other firms on their behalf.

By virtue of the second indent of Article 3 (1) and the third indent of Article 5 (1) of Decision No 2320/81/ECSC, the amount and intensity of investment aid and aid for continued operation must be justified by the extent of the restructuring effort associated with them. The capacity reductions so far offered are insufficient to justify aid on the scale of that already approved and that now proposed. It is also necessary to ensure an equitable distribution of the capacity reductions that are necessary to achieve, Community-wide, a reduction of the order of 30 to 35 million tonnes in capacity for hot-rolled products, which is required if, in line with the General Objectives for Steel, a minimum level of capacity utilization is to be restored necessary to secure the viability of the Community steel industry under normal market conditions. On this basis, after taking into consideration the restructuring effort to date and the aid prior to 1980, an extra restructuring effort must be accepted by the Belgian steel industry. In addition to the net reductions already offered to justify the clearance of aids by the Commission, the Belgian steel industry should therefore reduce its capacity for hot-rolled products by 825 000 tonnes. The additional closures required must be identified by a definite date.

## V

The Commission must supervise the grant of aids authorized and compliance with the conditions imposed by it.

The capacity reductions must be secured by the complete closure of plant, accompanied by measures ensuring that such closure is definitive. The net capacity reductions take into account any capacity increases that may result from approved investment programmes. To achieve the objective of bringing capacity into line with demand, any creation of new capacity must be compensated by additional closures.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that the restructuring programmes of aided undertakings must be capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids contribute to restoring viability.

The Commission can only authorize aid for undertakings that have fulfilled all their obligations under the ECSC Treaty and measures adopted in implementation of it.

The decisions on the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas <sup>(1)</sup> under Article 58 of the ECSC Treaty and its extension is considered necessary.

## VI

In view of the above, the Commission can authorize the aids proposed, subject to observance of the conditions and requirements laid down by it,

HAS ADOPTED THIS DECISION:

### Article 1

1. The following aids which the Belgian Government plans to grant to the steel undertakings listed below are compatible with the orderly functioning of the common market to the extent that the conditions and requirements set out in Articles 2 to 5 are satisfied:

#### *Cockerill-Sambre*

##### Investment aid

- tax concessions (exemption from property taxes for three years and availability of accelerated depreciation) for all the investment programmes,
- purchase of convertible participating conditional bonds and grant of State guarantees and interest subsidies worth a total of Bfrs 11 250 million,
- purchase of a State shareholding of Bfrs 150 million and of a junior-ranking bond of the same amount.

##### Aid for continued operation

- guarantees for a total of Bfrs 15 600 million,
- coverage of losses and rebuilding of working capital by subscription of new capital or purchase of convertible participating conditional bonds to a total value of Bfrs 18 100 million and by repayable advances worth Bfrs 5 000 million,

- conversion of Bfrs 51 200 million of debts into capital;

#### *Phénix Works*

aid for investment by purchase of a State shareholding of Bfrs 116 million and application of the Economic Expansion Act;

#### *Usines Gustave Boël*

aid under the Economic Expansion Act for an investment project (construction of a rod mill);

#### *Forges de Clabecq*

interest subsidies of Bfrs 102 million for minor investments;

aid for continued operation: purchase of convertible participating conditional bonds worth Bfrs 1 253 million and conversion of debts of Bfrs 1 500 million;

#### *Laminoirs de Longtain*

coverage of losses by subscription of convertible participating conditional bonds worth Bfrs 66,5 million;

#### *Laminoirs de Saint-Éloi*

aid for investment under the Economic Expansion Act and for continued operation by coverage of losses (Bfrs 101 million of convertible participating conditional bonds) and defrayal of interest on a long-term loan.

2. The following aids which the Belgian Government plans to grant to steel undertakings listed below are not compatible with the orderly functioning of the common market unless the conditions and requirements set out in Articles 2 to 5 are satisfied:

#### *Usines Gustave Boël*

aid under the Economic Expansion Act for three investment projects;

#### *Fabrique de Fer de Charleroi*

aid under the Economic Expansion Act for three investment projects.

<sup>(1)</sup> OJ No L 191, 1. 7. 1982, p. 1.

3. Any aid elements contained in the operations listed below are not compatible with the orderly functioning of the common market unless the conditions and requirements set out in Articles 2 to 5 are satisfied;

#### *Sidmar*

purchase of a State shareholding of Bfrs 3 500 million and conversion of Bfrs 11 170 million of debts under moratorium into capital or any other stable medium;

#### *ALZ*

purchase of a State shareholding of Bfrs 1 400 million and conversion of Bfrs 1 161 million of debts under moratorium into capital or any other stable medium.

The proposed operations may not be carried out until the Commission has determined whether or not they contain aid elements.

#### *Article 2*

1. (a) The undertakings to which it is planned to grant the aids referred to in Article 1 (1) shall carry out further net reductions in their production capacity for hot-rolled products of at least 825 000 tonnes, in addition to the reductions already accepted as justification for aid authorized by the Commission. The requisite capacity reductions may also be contributed by other undertakings.

(b) In order that the aids referred to in Article 1 (2) and (3) may be compatible with the orderly functioning of the common market the undertakings to which it is planned to grant the aids must carry out appropriate net reductions in their production capacity for hot-rolled products, in addition to the reductions already accepted as justification for aid authorized by the Commission. The requisite capacity reductions may also be contributed by other undertakings.

2. A list of the plants to be closed, giving the closure dates, and a report of increases in capacity resulting from investment shall be sent to the Commission by 31 January 1984 so that it can satisfy itself that the net reductions specified in the first paragraph will be achieved; the closures shall be implemented by 31 December 1985.

#### *Article 3*

None of the proposed aid shall be paid unless the Commission is satisfied that the undertaking concerned can return to financial viability by the end of 1985.

#### *Article 4*

1. The aids may be paid only if the Commission is satisfied, on the basis of an application submitted by the Belgian Government specifying the amount, form and purpose of the aid and the undertaking concerned, that the conditions set out in Articles 2 and 3, or a sufficient part thereof, are fulfilled and that the undertaking in question fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas.

2. However, aid that is absolutely necessary for the continued operation of the undertakings concerned until 31 January 1984 may be paid, provided that the undertakings fulfil their obligations in respect of ECSC Treaty rules, in particular those governing production quotas, if the Commission is satisfied, on the basis of an application by the Belgian Government specifying the amount, form and purpose of the aid, that the conditions set out in Article 2, or a sufficient part thereof, are fulfilled.

#### *Article 5*

1. The aid for investment may be granted only if the Commission, on the basis of the notification of the investment programmes, where this is required under Commission Decision No 3302/81/ECSC<sup>(1)</sup>, has delivered a favourable opinion on the programmes pursuant to Article 54 of the ECSC Treaty.

2. Such aid shall be disbursed as and when the undertaking incurs expenditure in connection with the investment.

#### *Article 6*

1. For the purposes of monitoring aid payments for compliance with the conditions and requirements laid down in this Decision, the Commission may require that the six-monthly reports supplied to it under Article 9 of Decision No 2320/81/ECSC contain details of the progress the aided undertakings have made towards achieving financial viability.

2. To enable it to check that investment aid is disbursed in accordance with the provisions of Article 5 (2) of this Decision, the Commission shall be informed at the beginning of each quarter of:

<sup>(1)</sup> OJ No L 333, 20. 11. 1981, p. 35.

- the expenditure to be incurred by the undertakings during the quarter concerned both in respect of work already done and as payments on account in respect of future work,
- the investment aid to be disbursed during the same period.

3. The Commission may also carry out on-the-spot inspections to verify that the reductions in capacity referred to in Article 2 (1) have been implemented.

#### *Article 7*

1. Without prejudice to any penalties it may impose by virtue of the ECSC Treaty, the Commission may order the suspension of aid payments if at any time it should find that:

- aid has been paid in disregard of the conditions attached to its authorization in this Decision,
- the six-monthly reports supplied to it give reason to doubt that the undertaking concerned will return to financial viability by the end of 1985; in such a case

the Commission may impose additional conditions relating to the restructuring of the undertaking,

- that the aided undertaking has breached its obligations under the provisions of the ECSC Treaty, in particular those governing the system of production quotas established under Article 58 and the rules on pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the infringements committed call for a reduction in the amount of the aid still outstanding.

#### *Article 8*

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 29 June 1983.

*For the Commission*

Frans ANDRIESEN

*Member of the Commission*

## COMMISSION DECISION

of 29 June 1983

concerning the aids that the Government of the Federal Republic of Germany proposes to grant to the steel industry

(Only the German text is authentic)

(83/392/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry <sup>(1)</sup>, and in particular Article 8 (3) thereof,

Having given notice, in accordance with Article 8 (3) of the abovementioned Decision, to the parties concerned to submit their comments, and having regard to those comments,

Whereas:

## I

By letters from its Permanent Representation dated 14, 16, 29 and 30 September 1982, the Federal Government notified the Commission, in accordance with Article 8 (1) of Decision No 2320/81/ECSC, of its plans for aids to the German steel industry.

Excluding Arbed Saarstahl GmbH, the aids covered by the notifications totalled some DM 7 600 million, including DM 2 400 million in guarantees and DM 924 million in aid to research and development.

In addition, the Federal Government notified for Commission approval under Article 8 (5) of Decision No 2320/81/ECSC eight general aid schemes in support of innovation, energy saving and environmental protection under which it also planned to aid the German steel industry.

## II

Of the aids notified, the Commission on 12 November 1982 approved payment of DM 93 million in investment aid to Hoesch Werke AG and on 30 November 1982 payment of DM 452 000 in investment aid to Böhler AG and up to DM 12,9 million in investment aid and DM 0,8

million of aid for research and development to the Benteler Group.

Regarding the remaining aid proposals, the Commission, after an initial scrutiny in the light of Articles 2, 3 and 7 of Decision No 2320/81/ECSC, concluded that they did not satisfy all the criteria set out in those Articles. It accordingly initiated in respect of them the procedure provided for in Article 8 (3) of the Decision and gave the Federal Government, the other Member States and other interested parties formal notice to submit their comments.

## III

In their replies three Member States expressed general agreement with the conclusions of the Commission.

## IV

In March 1983 the Federal Government withdrew the aid proposals in respect of a number of small steel firms and supplied further details of other proposals concerning small and medium-sized firms. It did not, however, offer appropriate reductions in production capacity for hot-rolled products to justify the aids proposed.

## V

On 31 March 1983 the Federal Government informed the Commission of the broad outline of its plans for restructuring the steel industry and of the report of the three 'Moderators'. At the same time it announced the beginning of new negotiations on cooperation between the undertakings.

The Federal Government also stated that, in addition to or instead of the aids notified so far, it was planning to grant aid for closures and continued operation.

<sup>(1)</sup> OJ No L 228, 13. 8. 1981, p. 14.

It also disclosed its plans for aid under the Special Steel Research Programme involving DM 44,7 million of aid for 21 research and development projects. It provisionally announced its intention of aiding further projects from list A notified to the Commission on 30 September 1982, from the appropriations provided in the 1984 and 1985 budgets.

## VI

The main elements of the restructuring plans of the major firms were subsequently clarified in talks between the firms, attended by representatives of the German authorities.

## VII

On 15 June 1983 the Federal Government informed the Commission that the maximum amounts of aid it now proposed to grant to the steel industry (excluding Arbed Saarstahl) under the various headings was as follows:

1. up to DM 4 200 million in investment and restructuring aid; the investment aid would be limited to 30 % of the investment expenditure; the restructuring aid would cover reimbursement of 50 % of the written-down value of the closed plants, plus part of associated social costs incurred between 1980 and 1985; the bulk of the restructuring aid would be for closures;
2. up to DM 290 million of aid under steel research programmes;
3. up to DM 770 million of aid under other programmes;
4. a standby guarantee of up to DM 2 600 million.

The above maximum amounts covered aid from both Federal Government and Länder sources.

The Federal Government stated that even if it were necessary to react to unforeseen development, not more than DM 4 200 million of the aid under the above programme would be called upon. This limit implied the need for an apportionment of the aid requested in arriving at the support to be given to individual undertakings.

The Federal Government asked the Commission to take a decision on aid to the German steel industry as a whole,

except Arbed Saarstahl, on the basis of the above aid plan.

At the time the Federal Government was unable to specify the amount and form of aid to be given to the individual steel firms. Nor had the firms' restructuring plans underlying the new aid proposals been finally worked out.

## VIII

Arbed Saarstahl GmbH has been engaged in implementing a restructuring programme with the help of public aid since 1977. In the period up to 1980 considerable reductions in capacity for hot-rolled products were made by or on behalf of the company, which the Commission must, under Article 2 (2) of Decision No 2320/81/ECSC, take into account in its appraisal of the present aid proposals.

## IX

Since 1980 net reductions of 673 000 tonnes in capacity for hot-rolled products have been made by or on behalf of Arbed Saarstahl GmbH, partly as justification for aids already approved by the Commission over this period.

The contribution of other undertaking to these reductions was specified by the Federal Government in its letter dated 3 May 1983.

## X

A new aid plan for Arbed Saarstahl GmbH was notified by the Federal Government, in accordance with Article 8 (1) of Decision No 2320/81/ECSC, by letter from its Permanent Representation dated 30 September 1982. The plan comprises:

1. investment aid, aid for closures and aid for continued operation totalling DM 1 500 million in the form of conditionally repayable grants for the period 1982 to 1985;
2. DM 70 million of aid to support energy-saving, environmental protection and innovation measures costing DM 253,8 million;
3. aid under the special research and development programme of up to 50 % of the cost of 16 R & D projects.

## XI

After an initial scrutiny of this aid plan in the light of Articles 2, 3, 5 and 7 of Decision No 2320/81/ECSC, the Commission concluded that, on the basis of the facts in its possession, the aids proposed did not satisfy all the criteria set out in those Articles. It accordingly initiated the procedure provided for in Article 8 (3) of the Decision and gave the Federal Government, the other Member States and other interested parties formal notice to submit their comments.

## XII

In their replies two Member States were in agreement with the conclusions of the Commission.

## XIII

By letter dated 2 March 1983 the Commission authorized a tranche of the aid proposed in the plan described at X above, namely DM 154,1 million in aid for continued operation. This authorization, too, was given on the basis of the capacity cuts referred to at IX.

## XIV

The Federal Government informed the Commission of the progress of the restructuring of Arbed Saarstahl GmbH by interim reports dated 10 December 1982 and 31 March, 3 May and 1 June 1983.

On the same occasions the Federal Government announced that aid of DM 500 million in the form of conditionally repayable grants and a DM 311 million grant to defray interest and repayments on guaranteed loans were needed to enable the firm to continue operating over the period 1983 to 1985.

No research and development aid had been set aside in the 1983 budget for any of the projects to be undertaken by Arbed Saarstahl GmbH; however, the Federal Government reserved the right to support schemes planned by the company which were on the list A notified on 30 September 1982 (seven R & D projects costing a total of DM 7,445 million) out of the 1984 and 1985 budgets.

## XV

The Commission regard the defrayal of interest and repayments on State guaranteed loans before the

circumstances legally justifying calling of the guarantee have arisen as new grants of aid. The Commission advised the Federal Government of this view in an opinion dated 8 December 1982.

## XVI

On 24 June 1983, the Federal Government requested authorization of further aids to Arbed Saarstahl GmbH, namely an increase of DM 250 million (from DM 500 million to DM 750 million) in the aid for continued operation in the form of conditionally repayable grants and defrayal of all interest and repayments falling due on guaranteed loans beyond 31 December 1985. The last-mentioned aid for continued operation would not be paid until after 31 December 1985 and is therefore, by virtue of Article 5 of Decision No 2320/81/ECSC, not authorizable.

## XVII

The Commission regards the restructuring effort so far made by Arbed Saarstahl GmbH as insufficient to justify the proposed aids described in sections XIV and XVI above.

## XVIII

Since 1980 the German steel industry has made considerable reductions in operational capacity. Except in the case of Arbed Saarstahl GmbH, the capacity reductions were accomplished with little or no State aid. Further cutbacks of operational capacity of some 3 million tonnes have been promised by 1985. After deduction of the reductions to justify aid to Arbed Saarstahl GmbH under the Commission's Decision of 8 December 1982, these come to some 2,6 million tonnes.

The restructuring record of the German steel industry to date and the present outline aid plan therefore permit the Commission to take an overall conditional decision on the proposed aids despite not having details either of the further restructuring measures planned by the steel firms concerned or of their respective shares of the proposed aid.

By virtue of the second indent of Article 3 (1) and the third indent of Article 5 (1) of Decision No 2320/81/ECSC, the amount and intensity of investment aid and aid for continued operation must be justified by the extent of the restructuring effort associated with them.

Community-wide, a reduction of the order of 30 to 35 million tonnes in capacity for hot-rolled products is required if, in line with the General Objectives for Steel, a level of capacity utilization is to be restored sufficient to secure the viability of the Community steel industry under normal market conditions. All concerned must contribute their fair share to achieving this capacity reduction. On this basis, after taking into consideration the restructuring effort to date and the aid prior to 1980, an extra restructuring effort must be accepted by the German steel industry involving capacity reductions of at least 1,2 million tonnes. The additional closures required must be identified by a definite date.

### XIX

The Commission must supervise the grant of aids authorized and compliance with the conditions imposed by it.

The capacity reductions must be secured by the complete closure of plants, accompanied by measures ensuring that such closure is definitive. The net capacity reductions take into account any capacity increases that may result from approved investment programmes.

To achieve the objective of bringing capacity into line with demand, the creation of new capacity must be compensated by additional closures.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids contribute to restoring viability. Two German steel undertakings give the Commission particular cause for doubt in this regard. One of them, which is in breach of fundamental rules of Community law, is unlikely to return to viability under present circumstances.

The Commission can only authorize aid for undertakings that have fulfilled all their obligations under the ECSC Treaty and measures adopted in implementation of it.

The decisions on the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas <sup>(1)</sup> under Article 58 of the ECSC Treaty and its extension is considered necessary.

### XX

In the Commission's view, a decision must cover the undertakings of the Federal Republic's steel industry as a whole, especially as a lasting solution to the structural problems of Arbed Saarstahl GmbH can only be achieved with measures involving several undertakings.

### XXI

In view of the above, the Commission can authorize the aids proposed, subject to observance of the conditions and requirements laid down by it,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The following aids which the Federal Republic of Germany plans to grant to the steel industry are compatible with the orderly functioning of the common market to the extent that the conditions and requirements set out in Articles 2 to 5 are satisfied:

- aids to German steel undertakings except Arbed Saarstahl GmbH:
- investment and restructuring aid: up to DM 4 200 million,
- aid under steel research programmes (Federal Ministry for Research): up to DM 290 million,
- aid under various other programmes: up to DM 770 million,
- guarantees: up to DM 2 600 million.

<sup>(1)</sup> OJ No L 191, 1. 7. 1982, p. 1.

- aids to Arbed Saarlöh GmbH:
  - aid for continued operation in the form of conditionally repayable grants: DM 750 million, plus defrayal of interest and repayments on guaranteed loans,
  - aid for investment in the field of energy saving, environmental protection and innovation under non-specific aid schemes: up to DM 70 million for all types of aid,
  - aid under the 1984 and 1985 budgets for research and development covering, in line with the Steel Research Programme, up to 50 % of the costs of research projects specified in list A in the Federal Government's notification of 30 September 1982 and amounting to DM 7,445 million or, within the same overall cost limit, other projects planned by the undertaking concerned appearing in list B of the said notification.

The above amounts of aid shall include aid from both Federal Government and Länder sources.

#### Article 2

1. In addition to the capacity reductions already achieved, the undertakings to which it is planned to grant the aids referred to in Article 1 shall, as justification for the aid, carry out the reductions of 2,6 million tonnes already planned plus further reductions of at least 1,2 million tonnes (i.e., 3,8 million tonnes in all) in capacity for hot-rolled products. The requisite capacity reductions may also be achieved by collective measures involving other undertakings.

2. A list of the plants to be closed, giving the closure dates, and a report of increases in capacity resulting from investment shall be sent to the Commission by 31 January 1984 so that it can satisfy itself that the net reductions specified in the first paragraph will be achieved; the capacity reductions shall be implemented by 31 December 1985.

#### Article 3

None of the proposed aid shall be paid unless the Commission is satisfied that the aided undertaking can return to financial viability by the end of 1985.

#### Article 4

1. The aids may be paid only if the Commission is satisfied, on the basis of an application submitted by the Federal Government specifying the amount, form and purpose of the aid and the undertaking concerned, that

the conditions set out in Articles 2 and 3, or a sufficient part thereof, are fulfilled and that the undertaking in question is not in breach of its obligations under the ECSC Treaty, in particular those concerning production quotas.

2. However, aid that is absolutely necessary for the continued operation of an undertaking until 31 January 1984 may be paid, provided that the undertaking is not in breach of its obligations under the ECSC Treaty, in particular those concerning production quotas, if the Commission is satisfied, on the basis of an application by the Federal Government specifying the amount, form and purpose of the aid and the undertaking concerned, that the conditions set out in Article 2, or a sufficient part thereof, are fulfilled.

#### Article 5

1. The aid for investment may be granted only if the Commission, on the basis of the notification of the investment programmes, where this is required under Commission Decision No 3302/81/ECSC<sup>(1)</sup>, has delivered a favourable opinion on the programmes pursuant to Article 54 of the ECSC Treaty.

2. Such aid shall be disbursed as and when the undertaking incurs expenditure in connection with the investment.

#### Article 6

1. For the purposes of monitoring aid payments for compliance with the conditions and requirements laid down in this Decision, the Commission may require that the six-monthly reports supplied to it under Article 9 of Decision No 2320/81/ECSC contain details of the progress the aided undertakings have made towards financial viability.

2. To enable it to check that investment aid is disbursed in accordance with the provisions of Article 5 (2), the Commission shall be informed at the beginning of each quarter of:

- the expenditure to be incurred by the undertakings during the quarter concerned both in respect of work already done and as payments on account in respect of future work.
- the investment aid to be disbursed during the same period.

3. The Commission may also carry out on-the-spot inspections to verify that the reductions in capacity referred to in Article 2 (1) have been implemented.

<sup>(1)</sup> OJ No L 333, 20. 11. 1981, p. 35.

*Article 7*

1. Without prejudice to any penalties it may impose by virtue of Article 58 of the ECSC Treaty, the Commission may order the suspension of aid payments if at any time it should find that:

- aid has been paid in disregard of the conditions attached to its authorization in this Decision,
- the six-monthly reports supplied to it give reason to doubt that the undertaking concerned will return to financial viability by the end of 1985; in such a case the Commission may impose additional conditions relating to the restructuring of the undertaking,
- that the undertaking is in breach of its obligations under the ECSC Treaty, in particular those concerning production quotas and pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the breaches in question call for a reduction in the amount of the aid still outstanding.

*Article 8*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 29 June 1983.

*For the Commission*

Frans ANDRIESSEN

*Member of the Commission*

## COMMISSION DECISION

of 29 June 1983

concerning the aids that the French Government proposes to grant to Sacilor and Usinor

(Only the French text is authentic)

(83/393/ECSC)

THE COMMISSION OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European  
Coal and Steel Community,

Having regard to Commission Decision No  
2320/81/ECSC of 7 August 1981 establishing  
Community rules for aids to the steel industry <sup>(1)</sup>, and in  
particular Article 8 (3) thereof,

Having given notice, in accordance with Article 8 (3) of  
the abovementioned Decision, to the parties concerned to  
submit their comments <sup>(2)</sup>, and having regard to those  
comments,

Whereas:

## I

By telex No 74 sent by its Permanent Representation on  
19 February 1982, the French Government notified the  
Commission of a plan to grant aid to the Usinor and  
Sacilor groups. By letter dated 30 September 1982 the  
French Government informed the Commission of a  
further set of aid measures to the two groups. After an  
initial scrutiny of the proposed aid for compatibility with  
the criteria laid down in Articles 2, 3 and 5 of Decision No  
2320/81/ECSC, on the basis of the information supplied  
to it by the French Government, the Commission  
concluded that the capacity reduction proposed was  
insufficient to justify all the notified aid measures and that  
the two firms were not certain to return to viability.  
However, approval of part of the aid was justified on the  
ground of the restructuring effort that had been made in  
the flat products and special steels sectors and the urgent  
need for the firms to undertake investment to modernize  
their plant in these sectors.

Consequently, the Commission authorized the aid for  
financing the planned investment in the flat products and  
special steels sectors and aid for continued operation to  
cover losses up to the end of the 1982 financial year.

However, it opened the procedure provided for in  
Article 8 (3) of Decision No 2320/81/ECSC in respect of  
the aid proposed for financing investment in the long  
products sector and for continued operation in 1983. On  
8 April and 26 November 1982, the Commission  
therefore sent two letters constituting formal notice to the  
French Government to submit its comments.

## II

The French Government did not reply to the formal  
notice referred to above.

In their replies, two other Member States were in  
agreement with the conclusions of the Commission.

By letter dated 28 June 1983, the French Government  
notified revised figures for the aid for continued operation  
notified on 30 September 1982 and requested the  
extension of this aid until 31 December 1984. It also  
offered new capacity reductions for hot-rolled  
products.

## III

The total amount of aid still subject to the procedure is as  
follows:

- investment aid:
  - FF 6 160 million,
  - guarantees on loans requested from ECSC,
- aid for continued operation:  
FF 18 664 million,
- aid for closures:  
FF 1 000 million.

In justification of all the aid notified, the French  
Government has proposed a net reduction of capacity for  
hot-rolled products of 5,357 million tonnes, part of  
which was already accepted to justify aid authorized in  
1982.

<sup>(1)</sup> OJ No L 228, 13. 8. 1981, p. 14.

<sup>(2)</sup> OJ No C 189, 23. 7. 1982, p. 3 and OJ No C 63, 8. 3. 1983,  
p. 2.

## IV

The above aid is to be granted partly in the form of endowments of capital or, if appropriate, shareholders' advances and the rest through a special semi-budgetary mechanism whereby new funds will be raised from the investing public and channelled in the form of cheap loans to the companies, with the Government stepping in to meet the commitments entered into with the financial markets (interest charges and repayments of principal) from budget allocations. Article 2 (1) of Decision No 2320/81/ECSC provides that the concept of aid includes any aid elements contained in the financing measures taken by Member States in respect of the steel 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. In view of the financial situation of Usinor and Sacilor and the approach likely to be adopted by a private entrepreneur in similar circumstances, any injection of funds into the two groups to recapitalize them inevitably contains aid elements.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. In the present case, the restructuring programme for Usinor and Sacilor does not point to a return to viability except on optimistic assumptions as to the trend of sales between 1980 and 1986. Such assumptions are not supported by the forecasts in the General Objectives for Steel. It is hence doubtful whether the two groups, and especially Sacilor, will return to viability. More therefore needs to be done, particularly in the long products sector, to take out plant which because of its age and ill-adaptedness to market requirements is a burden on the companies' operating performance. Such an effort is all the more necessary since by virtue of the second indent of Article 3 (1) and the third indent of Article 5 (1) of Decision No 2320/81/ECSC, the amount and intensity of investment aid and aid for continued operation must be justified by the extent of the restructuring effort associated with them.

In line with the General Objectives for Steel, an overall reduction Community-wide of 30 to 35 million tonnes of capacity for hot-rolled products is necessary to restore a level of capacity utilization that is considered the minimum required to secure the viability of the Community steel industry under normal market conditions. It is necessary to ensure that this overall capacity reduction is distributed fairly. On this basis, after taking into consideration the restructuring effort to date and the aid granted prior to 1980, an extra restructuring effort must be accepted by the French steel industry. Accordingly, the French steel industry must reduce its capacity for hot-rolled products by 630 000 tonnes over and above the reductions already proposed. It

is necessary to set a deadline by which the additional closures required must be identified.

## V

The Commission must supervise the grant of aids authorized and compliance with the conditions imposed by it.

The capacity reductions must be obtained by the complete closure of plant producing hot-rolled products and the Commission must be able to verify that such closure is definitive. The net capacity reductions take into account any capacity increases that may result from approved investment programmes. To achieve the objective of bringing capacity into line with demand, the creation of new capacity must be compensated by additional closures.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids contribute to restoring viability.

The Commission can only authorize aid for undertakings which have fulfilled all their obligations resulting from the application of the ECSC Treaty.

The authorization of the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas under Article 58 of the ECSC Treaty<sup>(1)</sup> and its extension is considered necessary.

## VI

In view of all the above, the Commission can authorize the aids proposed subject to observance of the conditions and requirements laid down by it,

<sup>(1)</sup> OJ No L 191, 1. 7. 1982, p. 1.

HAS ADOPTED THIS DECISION:

*Article 1*

The following aids which the French Government plans to grant to Sacilor and Usinor are compatible with the orderly functioning of the common market to the extent that the conditions and requirements set out in Articles 2 to 5 are satisfied:

- investment aid:
  - FF 6 160 million,
  - guarantees on loans requested from ECSC,
- aid for continued operation:
  - FF 18 664 million,
- aid for closures:
  - FF 1 000 million.

*Article 2*

1. The undertakings to which it is planned to grant the aids referred to in Article 1 shall carry out further net reductions in their production capacity for hot-rolled products of at least 630 000 tonnes, in addition to the reductions already proposed, part of which has already been accepted as justification for aid authorized by the Commission and to the reduction of 620 000 tonnes latterly offered by the French Government. The requisite capacity reductions may also be contributed by other undertakings.

2. A list of the plants to be closed, giving the closure dates and a report of increases in capacity resulting from investment shall be sent to the Commission by 31 January 1984 so that it can satisfy itself that the net reductions specified in the first paragraph will be achieved; the closures shall be implemented by 31 December 1985.

*Article 3*

None of the proposed aid shall be paid unless the Commission is satisfied that the undertaking concerned can return to financial viability by the end of 1985.

*Article 4*

1. The aids may be paid only if the Commission is satisfied, on the basis of an application submitted by the French Government specifying the amount, form and purpose of the aid and the undertaking concerned, that

the conditions set out in Articles 2 and 3, or a sufficient part thereof, are met and that the undertaking in question fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas.

2. However, aid that is absolutely necessary for the continued operation of an undertaking until 31 January 1984 may be paid, provided that the undertaking fulfils its obligations in respect of ECSC Treaty rules, in particular those governing production quotas, if the Commission is satisfied, on the basis of an application by the French Government specifying the amount, form and purpose of the aid, that the conditions set out in Article 2, or a sufficient part thereof, are fulfilled.

*Article 5*

1. The aid for investment may be granted only if the Commission, on the basis of the notification of the investment programmes, where this is required under Commission Decision No 3302/81/ECSC<sup>(1)</sup>, has delivered a favourable opinion on the programmes pursuant to Article 54 of the ECSC Treaty.

2. Such aid shall be disbursed as and when the undertaking incurs expenditure in connection with the investment.

*Article 6*

1. For the purposes of monitoring aid payments for compliance with the conditions and requirements laid down in this Decision, the Commission may require that the six-monthly reports supplied to it under Article 9 of Decision No 2320/81/ECSC contain details of the progress the aided undertakings have made towards financial viability.

2. To enable it to check that investment aid is disbursed in accordance with the provisions of Article 5 (2), the Commission shall be informed at the beginning of each quarter of:

- the expenditure to be incurred by the undertakings during the quarter concerned both in respect of work already done and as payments on account in respect of future work,
- the investment aid to be disbursed during the same period.

3. The Commission may also carry out on-the-spot inspections to verify that the reductions in capacity referred to in Article 2 (1) have been implemented.

<sup>(1)</sup> OJ No L 333, 20. 11. 1981, p. 35.

*Article 7*

1. Without prejudice to any penalties it may impose by virtue of the ECSC Treaty, the Commission may order the suspension of aid payments if at any time it should find that:

- aid has been paid in disregard of the conditions attached to its authorization in this Decision,
- the six-monthly reports supplied to it give reason to doubt that the undertaking concerned will return to financial viability by the end of 1985; in such a case the Commission may impose additional conditions relating to the restructuring of the undertaking,
- that the aided undertaking has breached its obligations under the provisions of the ECSC Treaty, in particular those governing the system of production

quotas established under Article 58 and the rules on pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the infringements committed call for a reduction in the amount of the aid still outstanding.

*Article 8*

This Decision is addressed to the French Republic.

Done at Brussels, 29 June 1983.

*For the Commission*

Frans ANDRIESSEN

*Member of the Commission*

## COMMISSION DECISION

of 29 June 1983

concerning the aids that the Hellenic Republic proposes to grant to the steel industry

(Only the Greek text is authentic)

(83/394/ECSC)

THE COMMISSION OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European  
Coal and Steel Community,

Having regard to Commission Decision No  
2320/81/ECSC of 7 August 1981 establishing  
Community rules for aids to the steel industry <sup>(1)</sup>, and in  
particular Article 8 (3) thereof,

Having given notice, in accordance with Article 8 (3) of  
the abovementioned Decision, to the parties concerned to  
submit their comments <sup>(2)</sup>, and having regard to those  
comments,

Whereas:

## I

By letter dated 20 October 1982, the Greek Government  
notified the Commission of its intention to grant  
investment aids to the steel undertakings Metallourgiki  
Halyps and Sidenor. After an initial scrutiny of the  
proposed aids in the light of the provisions of Articles 2  
and 3 of Decision No 2320/81/ECSC and on the basis of  
information provided by the Greek Government, the  
Commission concluded that no information was  
provided on the amount and form of aids, and that no  
capacity reductions were proposed. For these reasons the  
Commission initiated with respect to the aids proposed  
the procedure provided for in Article 8 (3) of Decision No  
2320/81/ECSC. Accordingly the Commission, on  
22 December 1982, sent a letter constituting formal  
notice to the Greek Government to submit its  
comments.

## II

In its replies, by letters dated 4 February and 8 June 1983  
respectively, the Greek Government provided the  
Commission with information on the amounts and forms  
of aids proposed; it also stated that the investment  
programme of Metallourgiki Halyps foresaw the  
extension of a water treatment unit, the installation of an

oxygen producing unit and of a reheat furnace; that the  
investment programme of Sidenor foresaw the  
installation of an electric furnace, rolls and other  
measures for the protection of the environment; that both  
investment programmes are still under preparation, the  
undertakings concerned not having taken their final  
decisions yet. In their replies two Member States and one  
federation of undertakings of the sector were in general  
agreement with the conclusions of the Commission.

## III

The investment aids subject to the procedure of  
Article 8 (3) of Decision No 2320/81/ECSC are:

- a grant of Dr 235 million to Metallourgiki Halyps,
- a grant of Dr 150 million to Sidenor,
- possible guarantees for ECSC loans.

The Greek Government has not proposed any capacity  
reduction to justify these aids.

## IV

The second indent of Article 2 (1) of Decision No  
2320/81/ECSC provides that restructuring programmes  
must result in an overall reduction in the production  
capacities of the undertakings in receipt of aids.  
According to the returns made by the firms to the  
Commission's annual investment surveys their capacities  
to produce hot-rolled products will increase for the period  
1980 to 1985 by 100 000 tonnes in the case of  
Metallourgiki Halyps and by 50 000 tonnes in the case of  
Sidenor.

The second indent of Article 3 (1) provides that the  
amount and intensity of aids must be justified by the  
extent of the restructuring effort involved; moreover, the  
capacity reductions which are required in order to obtain  
an overall capacity reduction at a Community level of  
30 to 35 million tonnes in hot-rolled products should be  
distributed fairly; this level of overall capacity reduction

<sup>(1)</sup> OJ No L 228, 13. 8. 1981, p. 14.

<sup>(2)</sup> OJ No C 133, 20. 5. 1983, p. 2.

is in view of the General Objectives for Steel, necessary to allow a return to a level of capacity utilization which is considered the minimum required to restore the viability of the Community steel industry under normal market conditions; on this basis sufficient effort must be accepted by the Greek steel industry; therefore an appropriate net capacity reduction in hot-rolled products must be proposed in favour of the two companies concerned; a deadline should be established for the identification of the closures that will have to be implemented.

# V

The Commission must supervise the grant of aids authorized and observance of the conditions imposed by it.

The capacity reductions must be obtained by the closure of plant producing hot-rolled products and the Commission must be able to verify that such closure is definitive. The net capacity reductions take into account any capacity increases that may result from approved investment programmes. In the context of the realization of the objective of adapting production capacity to demand, the creation of any new capacity must be compensated by additional closures.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids contribute to restoring viability.

The Commission can only authorize aid for undertakings which have fulfilled the entirety of their obligations resulting from the application of the ECSC Treaty.

The authorization of the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas <sup>(1)</sup> under Article 58 of the ECSC Treaty and its extension is considered necessary.

In view of all the above, the Commission cannot authorize the proposed aids unless the conditions and requirements laid down in this Decision are fulfilled,

HAS ADOPTED THIS DECISION:

## Article 1

The following investment aids which the Greek Government plans to grant to Metallourgiki Halyps and Sidenor are not compatible with the orderly functioning of the common market unless the conditions and requirements set out in Articles 2 to 4 are satisfied:

- a grant of Dr 235 million to Metallourgiki Halyps,
- a grant of Dr 150 million to Sidenor,
- possible guarantees for ECSC loans.

## Article 2

1. In order that the aids referred to in Article 1 may be compatible with the orderly functioning of the common market, the undertakings to which it is planned to grant the aids shall carry out appropriate net reductions in their production capacity for hot-rolled products. The requisite capacity reductions may also be contributed by other undertakings.

2. A list of the plants to be closed, giving the closure dates and a report of increases in capacity resulting from investment, shall be sent to the Commission by 31 January 1984 so that it can satisfy itself that the net reductions specified in the first paragraph will be achieved; the closures shall be implemented by 31 December 1985.

## Article 3

The aids may be paid only if the Commission is satisfied, on the basis of an application submitted by the Greek Government specifying the amount, form and purpose of the aid and the undertaking concerned, that the conditions set out in Article 2, or a sufficient part thereof, are fulfilled and that the undertaking in question fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas.

## Article 4

1. The aid for investment may be granted only if the Commission, on the basis of the notification of the investment programmes, where this is required under Commission Decision No 3302/81/ECSC <sup>(2)</sup>, has delivered a favourable opinion on the programmes pursuant to Article 54 of the ECSC Treaty.

<sup>(1)</sup> OJ No L 191, 1. 7. 1982, p. 1.

<sup>(2)</sup> OJ No L 333, 20. 11. 1981, p. 35.

2. Such aid shall be disbursed as and when the undertaking incurs expenditure in connection with the investment.

*Article 5*

1. To enable it to check that investment aid is disbursed in accordance with the provisions of Article 4 (2), the Commission shall be informed at the beginning of each quarter of:

- the expenditure to be incurred by the undertakings during the quarter concerned both in respect of work already done and as payments on account in respect of future work,
- the investment aid to be disbursed during the same period.

2. The Commission may also carry out on-the-spot inspections to verify that the reductions in capacity referred to in Article 2 (1) have been implemented.

*Article 6*

1. Without prejudice to any penalties it may impose by virtue of the ECSC Treaty, the Commission may order

the suspension of aid payments if at any time it should find that:

- aid has been paid in disregard of the conditions attached to its authorization in this Decision,
- that the aided undertaking has breached its obligations under the provisions of the ECSC Treaty, in particular those governing the system of production quotas established under Article 58 and the rules on pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the infringements committed call for a reduction in the amount of the aid still outstanding.

*Article 7*

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 29 June 1983.

*For the Commission*

Frans ANDRIESEN

*Member of the Commission*

**COMMISSION DECISION**  
**of 29 June 1983**  
**concerning the aids that the Irish Government proposes to grant to Irish Steel Ltd**

(Only the English text is authentic)

(83/395/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry <sup>(1)</sup>, and in particular Article 8 (3) thereof,

Having given notice in accordance with Article 8 (3) of the abovementioned Decision to the parties concerned to submit their comments <sup>(2)</sup>, and having regard to those comments,

Whereas:

I

By letter dated 29 September 1982, the Irish Government notified the Commission of its intention to grant aids to the steel firm Irish Steel Ltd (ISL). After an initial scrutiny of these aids, in the light of the provisions of Articles 2 to 5 of Decision No 2320/81/ECSC, and on the basis of information obtained, the Commission concluded that the viability of ISL remained in doubt, that there was no capacity reduction to justify the aids and that no information has been provided regarding the amounts and dates of the aid payments. For these reasons the Commission initiated with respect to the aids proposed the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC. Accordingly, the Commission on 29 November 1982 sent a letter constituting formal notice to the Irish Government to submit its comments.

II

In its reply, dated 19 April 1983, the Irish Government informed the Commission that ISL was on target regarding its sales level for the year to June 1983, that the reduction in the electricity charges which is essential for

ISL's viability would not result in a charge on public funds and would not discriminate against comparable consumers; that the Irish Government was giving ISL a trial period to 31 December 1983 to prove its viability and that no capacity reduction is necessary to justify the aids proposed since Article 2 (3) of Decision No 2320/81/ECSC applied in this case.

In their replies, two other Member States and one federation of companies of the sector, were in general agreement with the conclusions of the Commission.

On 27 April 1983 the Irish Government requested authorization for the issue of guarantees amounting to £ Irl 7 million in favour of ISL, in order to allow the undertaking to continue operating until 30 June 1983. The Commission, by letter dated 6 May 1983, authorized this interim measure, without prejudice to its final decision.

III

The aids for continued operation that are still subject to the procedure of Article 8 (3) of Decision No 2320/81/ECSC are:

- £ Irl 89 million of new capital, and
- £ Irl 18 million of guarantees to prefinance this capital as necessary.

The Irish Government has stated that it can offer no capacity reduction to justify these aids.

IV

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that the aided undertaking must be engaged in the implementation of a systematic and specific restructuring programme covering the different aspects of restructuring, which is capable of restoring its competitiveness and making it financially viable without any aid under normal market conditions.

<sup>(1)</sup> OJ No L 228, 13. 8. 1981, p. 14.

<sup>(2)</sup> OJ No C 54, 26. 2. 1983, p. 2.

In the case in point even if the reduction in the electricity charges is achieved, ISL's viability remains in doubt, since the Irish market is too small to absorb a level of ISL output sufficient to secure an adequate level of capacity utilization for the undertaking.

The second indent of Article 2 (1) provides that the restructuring programme must result in a reduction in the production capacity of the aided undertaking.

Article 2 (3) provides that in taking decisions on applications for aid submitted to it pursuant to restructuring programmes, the Commission shall take account of the special situation of Member States having only one steel undertaking whose effect on the Community market is minimal. Since this is the case with Irish Steel Ltd, the Commission can limit its appraisal to the viability of the undertaking.

## V

The Commission must supervise the grant of the aids authorized and observance of the conditions imposed by it. The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids contribute to restoring viability.

The Commission can only authorize aid for undertakings which have fulfilled the entirety of their obligations resulting from the application of the ECSC Treaty.

The authorization of the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas <sup>(1)</sup> under Article 58 of the ECSC Treaty and its extension is considered necessary.

## VI

In view of all the above, the Commission cannot authorize the proposed aids unless the conditions and requirements laid down in this Decision are fulfilled,

<sup>(1)</sup> OJ No L 191, 1. 7. 1982, p. 1.

HAS ADOPTED THIS DECISION:

### Article 1

The following aids for continued operation which the Irish Government plans to grant to ISL are not compatible with the orderly functioning of the common market unless the conditions and requirements of Articles 2 and 3 are fulfilled:

- £ Irl 89 million of new capital, and
- £ Irl 18 million of guarantees to prefinance this capital if necessary.

### Article 2

The aids may be paid only if the Commission is satisfied, on the basis of information supplied to it by 31 January 1984, that the undertaking can return to financial viability by the end of 1985.

### Article 3

The aid that is absolutely necessary for the continued operation of ISL until 31 January 1984 may be paid, provided that the undertaking fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas, if the Commission is satisfied, on the basis of an application by the Irish Government specifying the amount, form and purpose of the aid, that ISL is on target for achieving the objective referred to in Article 2.

### Article 4

For the purposes of monitoring aid payments for compliance with the conditions and requirements laid down in this Decision, the Commission may require that the six-monthly reports supplied to it under Article 9 of Decision No 2320/81/ECSC contain details of the progress the aided undertaking has made towards achieving financial viability.

### Article 5

1. Without prejudice to any penalties it may impose by virtue of the ECSC Treaty, the Commission may order the suspension of aid payments if at any time it should find that:

- aid has been paid in disregard of the conditions attached to its authorization in this Decision,

- the six-monthly reports supplied to it give reason to doubt that the undertaking concerned will return to financial viability by the end of 1985; in such a case the Commission may impose additional conditions relating to the restructuring of the undertaking,
- that the aided undertaking has breached its obligations under the provisions of the ECSC Treaty, in particular those governing the system of production quotas established under Article 58 and the rules on pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the

infringements committed call for a reduction in the amount of the aid still outstanding.

*Article 6*

This Decision is addressed to Ireland.

Done at Brussels, 29 June 1983.

*For the Commission*

Frans ANDRIESSEN

*Member of the Commission*

## COMMISSION DECISION

of 29 June 1983

concerning the aids that the Italian Government proposes to grant to certain steel undertakings

(Only the Italian text is authentic)

(83/396/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry <sup>(1)</sup>, and in particular Article 8 (3) thereof,

Having given notice, in accordance with Article 8 (3) of the abovementioned Decision, to the parties concerned to submit their comments <sup>(2)</sup>, and having regard to those comments.

Whereas:

## I

By letters dated 1 October, 20 November and 3 December 1981 and 30 September 1982, the Italian Government notified the Commission of its intention to grant aids to the Finsider group and Sisma (subsidiaries of IRI, the Istituto per la Ricostruzione Industriale) and to all steel producers over 50 % of whose total annual consumption of electricity was accounted for by the use of electric arc furnaces. After an initial scrutiny of the aids for compatibility with Articles 2, 3 and 5 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that the capacity reductions proposed for Finsider and Sisma were insufficient and that the two companies were not certain to return to viability. The Commission also noted that the electric steel-makers did not propose a restructuring programme involving a net capacity reduction over all the firms receiving aid to justify that aid. The Commission therefore initiated in respect of the proposed aids the procedure provided for in Article 8 (3) of Decision No

2320/81/ECSC and on 4 December 1981 and 22 January and 30 November 1982 sent letters constituting formal notice to the Italian Government to submit its comments. However, it authorized part of the aid to Finsider because of the group's pressing cash flow problems and the net capacity reductions that had been offered.

## II

In its replies to the abovementioned letters and in other correspondence and contacts with the Commission, the Italian Government submitted with regard to Finsider *inter alia* that:

- the undercapitalization of the State-owned enterprises placed the Italian steel industry in a different position from that of the other Member States and therefore justified injections of capital by way of financial restructuring,
- in judging the restructuring effort, particularly as regards capacity reductions, account should be taken of the fact that Finsider's plants were in general more modern and efficient than those operated by the other main steel groups in the Community and furthermore that in the flat products sector demand was greater than national output,
- in view of the trade deficit just referred to and the nature of domestic Italian demand, which was more sustained than in the other Member States, an increase in sales would not affect intra-Community trade to an extent contrary to the common interest.

The Italian Government also stated that, contrary to what had been said in its letter of 30 September 1982, no investment aid would be given to Sisma under Law No 675 of 12 August 1977 and recalled that this company's restructuring programme had received a favourable opinion from the Commission under Article 54 of the ECSC Treaty and would involve a considerable number of redundancies.

<sup>(1)</sup> OJ No L 228, 13. 8. 1981, p. 14.

<sup>(2)</sup> OJ No C 123, 14. 5. 1982, No C 185, 20. 7. 1982, No C 46, 17. 2. 1983 and No C 52, 24. 2. 1983.

The Italian Government also maintained that the payment by the exchequer of part of the energy costs of electric steel-making plants was not an aid to the steel industry, since its sole purpose was to bring about a more efficient loading of the electricity grid by encouraging consumption in periods of trough demand.

Two Member States and two federations of undertakings of the sector were in general agreement with the position taken by the Commission.

During the course of the procedure, the Italian Government submitted a revised restructuring programme for Finsider to the Commission, offering larger capacity cuts than originally proposed. The new proposals were confirmed in a letter from the Italian Government dated 20 June 1983. Revised figures were also submitted for the amount of aid that was thought necessary in connection with the new plan. By letter dated 28 June 1983 the Italian Government also notified the Commission of new aids for continued operation that it proposed to grant to the private sector.

### III

Taking into account the revised figures referred to above and the amount of aid already authorized by the Commission, the aid to Finsider that is still subject to the procedure is as follows:

- investment aid:
  - interest subsidies on bank loans totalling Lit 1 203 600 million,
  - regional grants totalling Lit 284 400 million,
  - exchange risk cover on loans requested from ECSC;
- aid for continued operation:
  - interest subsidies and State guarantee on a seven-year, Lit 2 000 000 million loan to Finsider from IRI,
  - coverage of losses of plants formerly belonging to the EGAM group: Lit 994 400 million,
  - coverage of so-called 'indirect' or 'non-inherent' charges: Lit 313 000 million,
  - aid for research and development up to Lit 57 000 million.

In addition to the aids listed above, a capital fund is to be set up from which IRI can carry out a recapitalization of Finsider. This arrangement involves a further sum of Lit 5 937 900 million that has to be considered by the Commission under the procedure.

A further tranche of aid in the form of a capital injection of Lit 49 007 million is to be given to rebuild and increase the capital and cover the losses of Sisma.

The aid that it is proposed to grant to the private sector is as follows:

- defrayal by the exchequer of part of the energy costs of electric steel-makers,
- grants for firms making net reductions of capacity (budget: Lit 50 000 million),
- defrayal by the exchequer of up to 10 percentage points of the financial charges on medium-term loans (maximum budget: Lit 500 000 million).

The Italian Government proposes to justify the aid to Finsider by a net reduction of 2,374 million tonnes in its capacity for hot-rolled products; this includes 130 000 tonnes accepted as justification for aid already authorized.

The net capacity reduction for hot-rolled products planned in Sisma's restructuring programme is 25 000 tonnes.

The Italian Government has undertaken to obtain from the private steel producers for whom aid has already been authorized by the Commission a net capacity reduction of between 1,8 million and 2,2 million tonnes between 1980 and 1985. It has also promised to ensure that private steel producers not receiving aid do not increase their net capacity by a margin exceeding that amount during the same period.

### IV

Article 1 (2) of Decision No 2320/81/ECSC provides that the concept of aid includes any aid elements contained in the financing measures taken by Member States in respect of the steel 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. In view of the financial situation of Finsider and Sisma and the approach likely to be adopted by a private entrepreneur in similar circumstances, any injection of funds into the companies to recapitalize them inevitably contains substantial aid elements.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions.

In the present case, Finsider's restructuring programme does not point to a return to viability except on extremely optimistic assumptions particularly as to the trend of sales. Such assumptions are not supported by the forecasts in the General Objectives for Steel. It is hence doubtful whether the firm can return to viability in these circumstances. Consequently, an additional restructuring effort must be made, aimed in particular at taking out plant that is old and ill-adapted to market requirements. Such an effort is all the more warranted since by virtue of the second indent of Article 3 (1) and the third indent of Article 5 (1) of Decision No 2320/81/ECSC, the amount and intensity of investment aid and aid for continued operation must be justified by the extent of the restructuring effort associated with them.

In Sisma's case, the planned concentration of production on one plant, already modernized, should help to restore its viability. However, the amount and intensity of the aid are not justified by the restructuring effort made, as this is reflected in particular in capacity reductions.

As far as the aid to the electric steel producers is concerned, Article 1 of Decision No 2320/81/ECSC provides that all aids to the steel industry are compatible with the orderly functioning of the common market only if they respect the rules set out in Articles 2 to 7.

The payment of the electricity surcharge (*sovrapprezzo termico*) by the Government from general taxation is not a general scheme but one which applies specifically to the steel industry. Even though the costs of the various factors of production may vary from one Member State to another, this does not justify excluding this aid from the scope of Decision No 2320/81/ECSC. Therefore, such aid can be considered compatible with the provisions of Decision No 2320/81/ECSC only if it forms part of a

restructuring programme involving capacity reduction. The other aids that it is proposed to give for continued operation can likewise only be justified by the acceptance of capacity reductions by the firms receiving them.

In line with the General Objectives for Steel, an overall reduction Community-wide of 30 to 35 million tonnes of capacity for hot-rolled products is necessary to restore a level of capacity utilization that is considered the minimum required to secure the viability of the Community steel industry under normal market conditions. It is necessary to ensure that this overall capacity reduction is distributed fairly. On this basis, an extra restructuring effort must be accepted by the Italian steel industry as a whole. It is necessary to set a deadline by which the additional closures required must be identified.

## V

The Commission must supervise the grant of aids authorized and compliance with the conditions imposed by it.

The capacity reductions must be obtained by the complete closure of plant, accompanied by measures ensuring that such closure is definitive. The net capacity reductions take into account any capacity increases that may result from approved investment programmes. To achieve the objective of bringing capacity into line with demand, the creation of new capacity must be compensated by additional closures.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids *contribute to restoring viability*.

The Commission can only authorize aid for undertakings which have fulfilled all their obligations resulting from the application of the ECSC Treaty.

The authorization of the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas <sup>(1)</sup> under Article 58 of the ECSC Treaty and its extension is considered necessary.

## VI

In view of all the above, the Commission can authorize the aids proposed, subject to observance of the conditions and requirements laid down by it,

HAS ADOPTED THIS DECISION:

### Article 1

The following aids which the Italian Government plans to grant to the Finsider Group, Sisma and steel producers over 50 % of whose annual consumption of electricity is accounted for by the use of electric arc furnaces are compatible with the orderly functioning of the common market to the extent that the conditions and requirements set out in Articles 2 to 5 are satisfied:

#### 1. Aids to Finsider:

- Investment aid:
  - interest subsidies on bank loans totalling Lit 1 203 600 million,
  - regional grants totalling Lit 284 400 million,
  - exchange risk cover on loans requested from the ECSC totalling Lit 675 600 million;
- Aid for continued operation:
  - interest subsidies and State guarantee on a Lit 2 000 000 million loan to Finsider from IRI,
  - coverage of losses of plants formerly belonging to the EGAM group: Lit 494 400 million,
  - coverage of so-called 'indirect' or 'non-inherent' charges: Lit 313 000 million;
- Aid for research and development up to Lit 57 000 million:
  - endowment of a fund from which IRI can carry out a recapitalization of Finsider: Lit 5 937 900 million.

2. Aids to Sisma: endowment of a fund from which IRI can carry out a recapitalization: Lit 49 007 million.

#### 3. Aids to private steel producers:

- defrayal by the exchequer of increases in the electricity surcharge (sovrapprezzo termico) decided by the Interministerial Price Committee between 31 March 1981 and 31 December 1982,
- subsidy of up to 10 percentage points of the financial charges on existing or future medium-term loans for a maximum of three years (maximum budget: Lit 500 000 million),
- closure grants for firms making net reductions of capacity (budget: Lit 50 000 million).

### Article 2

1. The undertakings to which it is planned to grant the aids referred to in Article 1 shall carry out further net reductions in their production capacity for hot-rolled products of at least 3,46 million tonnes, in addition to the reduction of 2,244 million tonnes that has been proposed to justify the aids and to the reductions already accepted as justification for aid authorized by the Commission. The requisite capacity reductions may also be contributed by other undertakings.

2. A list of the plants to be closed, giving the closure dates and a report of increases in capacity resulting from investment shall be sent to the Commission by 31 January 1984 so that it can satisfy itself that the net reductions specified in the first paragraph will be achieved; the closures shall be implemented by 31 December 1985.

### Article 3

None of the proposed aid shall be paid unless the Commission is satisfied that the undertaking concerned can return to financial viability by the end of 1985.

### Article 4

1. The aids may be paid only if the Commission is satisfied, on the basis of an application submitted by the Italian Government specifying the amount, form and purpose of the aid and the undertaking concerned, that the conditions set out in Articles 2 and 3, or a sufficient part thereof, are met and that the undertaking in question fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas.

<sup>(1)</sup> OJ No L 191, 1. 7. 1982, p. 1.

2. However, aid that is absolutely necessary for the continued operation of an undertaking until 31 January 1984 may be paid provided that the undertaking fulfils its obligations in respect of ECSC Treaty rules, in particular those governing production quotas, if the Commission is satisfied, on the basis of an application by the Italian Government specifying the amount, form and purpose of the aid, that the conditions set out in Article 2, or a sufficient part thereof, are fulfilled.

#### *Article 5*

1. The aid for investment may be granted only if the Commission, on the basis of the notification of the investment programmes, where this is required under Commission Decision No 3302/81/ECSC<sup>(1)</sup> has delivered a favourable opinion on the programmes pursuant to Article 54 of the ECSC Treaty.

2. Such aid shall be disbursed as and when the undertaking incurs expenditure in connection with the investment.

#### *Article 6*

1. For the purposes of monitoring aid payments for compliance with the conditions and requirements laid down in this Decision, the Commission may require that the six-monthly reports supplied to it under Article 9 of Decision No 2320/81/ECSC contain details of the progress the aided undertakings have made towards financial viability.

2. To enable it to check that investment aid is disbursed in accordance with the provisions of Article 5 (2), the Commission shall be informed at the beginning of each quarter of:

- the expenditure to be incurred by the undertakings during the quarter concerned both in respect of work already done and as payments on account in respect of future work,

- the investment aid to be disbursed during the same period.

3. The Commission may also carry out on-the-spot inspections to verify that the reductions in capacity referred to in Article 2 (1) have been implemented.

#### *Article 7*

1. Without prejudice to any penalties it may impose by virtue of the ECSC Treaty, the Commission may order the suspension of aid payments if at any time it should find that:

- aid has been paid in disregard of the conditions attached to its authorization in this Decision,
- the six-monthly reports supplied to it give reason to doubt that the undertaking concerned will return to financial viability by the end of 1985; in such a case the Commission may impose additional conditions relating to the restructuring of the undertaking,
- that the aided undertaking has breached its obligations under the provisions of the ECSC Treaty, in particular those governing the system of production quotas established under Article 58 and the rules on pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the infringements committed call for a reduction in the amount of the aid still outstanding.

#### *Article 8*

This Decision is addressed to the Italian Republic.

Done at Brussels, 29 June 1983.

*For the Commission*

Frans ANDRIESEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 333, 20. 11. 1981, p. 35.

## COMMISSION DECISION

of 29 June 1983

concerning the aids that the Luxembourg Government proposes to grant to the steel industry

(Only the French text is authentic)

(83/397/EEC, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 93 (2) thereof,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 257/80/ECSC of 1 February 1980 establishing Community rules for specific aids to the steel industry <sup>(1)</sup>, and in particular Article 6 (2) thereof,

Having regard to Commission Decision No 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry <sup>(2)</sup>, and in particular Article 8 (3) thereof,

Having given notice, in accordance with Article 93 (2) of the EEC Treaty, Article 6 (2) of Decision No 257/80/ECSC and Article 8 (3) of Decision No 2320/81/ECSC, to the parties concerned to submit their comments <sup>(3)</sup>, and having regard to those comments,

Whereas:

## I

By letter dated 28 January 1981, the Luxembourg Government notified the Commission of its intention to grant aids to its steel industry. After an initial scrutiny of the aids for compatibility with the criteria laid down in Articles 2, 3 and 4 of Decision No 257/80/ECSC, on the basis of the information supplied to it, the Commission concluded that the capacity reductions proposed were insufficient and that some plants were not certain to regain competitiveness. It therefore initiated in respect of the specific and non-specific aids in question the

procedure provided for in Article 93 (2) of the EEC Treaty and Article 6 (2) of Decision No 257/80/ECSC and on 21 April 1981 sent a letter constituting formal notice to the Luxembourg Government to submit its comments.

The Luxembourg Government subsequently modified its restructuring plan to include a much bigger capacity reduction for hot-rolled products (490 000 tonnes) than that originally proposed. On the basis of the capacity reduction offered under the revised plan, the Commission, by letter dated 30 July 1982, authorized the grant of part of the aids proposed, subject to certain conditions. These included the requirement that the increase in the capacity of the Esch-Schiffange rod mill should be compensated by closures of capacity sufficient to justify the capacity increase. The Luxembourg Government gave its agreement to the conditions by letter dated 11 August 1982.

By two letters dated 27 September 1982, the Luxembourg Government notified the Commission of additional aid to its steel industry without major changes in the restructuring plan. After an initial scrutiny of the notification in the light of Articles 2, 3 and 5 of Decision No 2320/81/ECSC, the Commission concluded that the revised plan did not incorporate new measures to justify additional aid, an impression compounded by doubts as to the compatibility of certain investment projects with the restructuring criteria. The Commission therefore initiated in respect of the new proposals the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC, and on 29 November 1982 sent a letter constituting formal notice to the Luxembourg Government to submit its comments.

## II

In reply to the Commission's letters referred to above and in other correspondence and contacts with it, the Luxembourg Government submitted *inter alia* that:

— the Luxembourg steel industry had begun restructuring, largely without aid, before 1980 and that the Commission must take this into account in

<sup>(1)</sup> OJ No L 29, 6. 2. 1980, p. 5.

<sup>(2)</sup> OJ No L 228, 13. 8. 1981, p. 14.

<sup>(3)</sup> OJ No C 117, 20. 5. 1981, p. 2 and OJ No C 52, 24. 2. 1983, p. 3.

accordance with Article 2 (2) of Decision No 2320/81/ECSC,

- Article 2 (3) of the Decision should also be applied to Luxembourg,
- the steel industry was of crucial importance for the Luxembourg economy, both in terms of volume of output and exports and in terms of the number of jobs that directly or indirectly depended on it.

In their replies, three other Member States, two federations of undertakings of the sector and one individual firm were in general agreement with the conclusions of the Commission.

By letter dated 31 March 1983, the Luxembourg Government made certain adjustments to its notification of 27 September 1982.

### III

The aids that are still subject to the procedure are as follows:

- investment aid:
  - grants and repayable grants, possibly converted into interest subsidies, covering a total of 25 % of investment expenditure over the period 1980 to 1985 (excepting aid authorized in the first tranche),
  - government guarantees on ECSC loans,
  - a subsidized loan of Lfrs 28 million to Métallurgique Minière de Rodange-Athus (MMRA),
  - a 15 % grant towards building of a coking plant;
- aid for continued operation:
  - government guarantees for repayment of principal on medium-term loans of up to Lfrs 6 800 million,
  - contribution of increases of capital of Lfrs 2 700 million,
  - interest subsidies of Lfrs 3 330 million.

To justify the aids, the Luxembourg Government proposes a further net reduction of 60 000 tonnes of capacity for hot-rolled products.

### IV

The second indent of Article 2 (1) of Decision No 2320/81/ECSC provides that the restructuring programmes of aided undertakings should not make provision for an increase in production capacity for categories of products for which there is not a growth market. The Luxembourg plan provides for the removal of a bottleneck in the Esch-Schifflange rod mill, which would lead to an increase in the capacity of this mill in 1983 of 78 000 tonnes over the 1980 level. The wire-rod market does not appear to be one that has growth potential.

The provisions of Article 2 (3) of the Decision are not applicable to Luxembourg since its industry has much more than a minimal effect on the Community market.

The second indent of Article 3 (1) and the third indent of Article 5 (1) of Decision No 2320/81/ECSC provide that the amount and intensity of investment aid and aid for continued operation must be justified by the extent of the restructuring associated with them. In line with the General Objectives for Steel an overall reduction Community-wide of 30 to 35 million tonnes of capacity for hot-rolled products is necessary to restore a level of capacity utilization which is considered the minimum required to secure the viability of the Community steel industry under normal market conditions. It is necessary to ensure that this overall capacity reduction is distributed fairly. On this basis, after taking into consideration the restructuring effort to date and the aid granted prior to 1980, an extra restructuring effort must be accepted by the Luxembourg steel industry. Accordingly, the Luxembourg steel industry must reduce its capacity for hot-rolled products by 410 000 tonnes in addition to the reduction of 60 000 tonnes proposed. It is necessary to set a deadline by which the additional closures required must be identified.

### V

The Commission must supervise the grant of aids authorized and compliance with the conditions imposed by it.

The capacity reductions must be obtained by the complete closure of plant producing hot-rolled products and the Commission must be able to verify that such closure is definitive. The net capacity reductions take into account any capacity increases that may result from approved investment programmes. To achieve the objective of bringing capacity into line with demand, the creation of new capacity must be compensated by additional closures.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids contribute to restoring viability.

The Commission can only authorize aid for undertakings which have fulfilled all their obligations resulting from the application of the ECSC Treaty.

The authorization of the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas under Article 58 of the ECSC Treaty <sup>(1)</sup> and its extension is considered necessary.

## VI

In view of all the above, the Commission can authorize the aids proposed, subject to observance of the conditions and requirements laid down by it,

HAS ADOPTED THIS DECISION:

### Article 1

The following aids which the Luxembourg Government plans to grant to the steel undertakings Arbed and Métallurgique et Minière de Rodange-Athus (MMRA) are compatible with the orderly functioning of the common market to the extent that the conditions and requirements set out in this Decision are satisfied:

— investment aid:

- grants and repayable grants possibly converted into interest subsidies, equivalent to a total of 25 % of investment expenditure over the period 1980 to 1985 (excepting those authorized in the first tranche totalling Lfrs 2 860 million),
- government guarantees on ECSC loans,
- a subsidized loan of Lfrs 28 million to MMRA,
- a 15 % grant towards the building of a coking plant;

— aid for continued operation:

- government guarantees for repayment of principal on medium-term loans of up to Lfrs 6 800 million,
- contribution of increases of capital of Lfrs 2 700 million,
- interest subsidies of Lfrs 3 330 million.

### Article 2

1. The undertakings to which it is planned to grant the aids referred to in Article 1 shall, as justification for the aids, carry out further net reductions in their production capacity for hot-rolled products of at least 410 000 tonnes, in addition to the reduction of 60 000 tonnes that has been proposed to justify the aids and to the reductions already accepted as justification for aid authorized by the Commission. The requisite capacity reductions may also be contributed by other undertakings.

2. A list of the plants to be closed, giving the closure dates, and a report of increases in capacity resulting from investment shall be sent to the Commission by 31 January 1984 so that it can satisfy itself that the net reductions specified in the first paragraph will be achieved; the closures shall be implemented by 31 December 1985.

### Article 3

None of the proposed aid shall be paid unless the Commission is satisfied that the undertaking concerned can return to financial viability by the end of 1985.

### Article 4

1. The aids may be paid only if the Commission is satisfied, on the basis of an application submitted by the Luxembourg Government specifying the amount, form and purpose of the aid and the undertaking concerned, that the conditions set out in Articles 2 and 3, or a sufficient part thereof, are met and that the undertaking in question fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas.

2. However, aid that is absolutely necessary for the continued operation of an undertaking until 31 January 1984, may be paid, provided that the undertaking fulfils its obligations in respect of ECSC Treaty rules, in particular those governing production quotas, if the Commission is satisfied, on the basis of an application by

<sup>(1)</sup> OJ No L 191, 1. 7. 1982, p. 1.

the Luxembourg Government specifying the amount, form and purpose of the aid, that the conditions set out in Article 2, or a sufficient part thereof, are fulfilled.

#### *Article 5*

1. The aid for investment may be granted only if the Commission, on the basis of the notification of the investment programmes, where this is required under Commission Decision No 3302/81/ECSC <sup>(1)</sup>, has delivered a favourable opinion on the programmes pursuant to Article 54 of the ECSC Treaty.

2. Such aid shall be disbursed as and when the undertaking incurs expenditure in connection with the investment.

#### *Article 6*

1. For the purposes of monitoring aid payments for compliance with the conditions and requirements laid down in this Decision, the Commission may require that the six-monthly report supplied to it under Article 9 of Decision No 2320/81/ECSC contain details of the progress the aided undertakings have made towards achieving financial viability.

2. To enable it to check that investment aid is disbursed in accordance with the provisions of Article 5 (2) of this Decision, the Commission shall be informed at the beginning of each quarter of:

- the expenditure to be incurred by the undertakings during the quarter concerned both in respect of work already done and as payments on account in respect of future work,
- the investment aid to be disbursed during the same period.

3. The Commission may also carry out on-the-spot inspections to verify that the reductions in capacity referred to in Article 2 (1) have been implemented.

#### *Article 7*

1. Without prejudice to any penalties it may impose by virtue of the ECSC Treaty, the Commission may order the suspension of aid payments if at any time it should find that:

- aid has been paid in disregard of the conditions attached to its authorization in this Decision,
- the six-monthly reports supplied to it give reason to doubt that the undertaking concerned will return to financial viability by the end of 1985; in such a case the Commission may impose additional conditions relating to the restructuring of the undertaking,
- that the aided undertaking has breached its obligations under the provision of the ECSC Treaty, in particular those governing the system of production quotas established under Article 58 and the rules on pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the infringements committed call for a reduction in the amount of the aid still outstanding.

#### *Article 8*

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 29 June 1983.

*For the Commission*

Frans ANDRIESEN

*Member of the Commission*

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<sup>(1)</sup> OJ No L 333, 20. 11. 1981, p. 35.

## COMMISSION DECISION

of 29 June 1983

concerning the aids that the Netherlands Government proposes to grant to the steel industry

(Only the Dutch text is authentic)

(83/398/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry <sup>(1)</sup>, and in particular Article 8 (3) thereof,

Having given notice, in accordance with Article 8 (3) of the abovementioned Decision, to the parties concerned to submit their comments <sup>(2)</sup>, and having regard to those comments,

Whereas:

## I

By letter dated 30 September 1982, the Netherlands Government notified the Commission of its intention to grant aids to the steel undertakings Hoogovens and Nedstaal. After an initial scrutiny of the proposed aids for compatibility with Articles 2, 3, 5 and 7 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that the restructuring plan for the Netherlands steel industry would result in a slight increase in capacity for hot-rolled products between 1980 and 1985. It therefore initiated in respect of the aids the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC and on 30 November 1982 sent a letter constituting formal notice to the Netherlands Government to submit its comments.

## II

In its letter dated 30 December 1982 in reply to the Commission's letter, the Netherlands Government submitted *inter alia* that:

- the capacity increases that had already taken place as a result of investment that had received a favourable opinion from the Commission should not be taken into account in assessing the aids now notified,

- for reasons of market strategy, Nedstaal could not afford to reduce its capacity by closing down or modifying its plant,
- the low intensity of aid granted in the past and planned for the future merited a lower capacity reduction in the Netherlands than in the other Member States.

In their replies, two other Member States and one federation of undertakings of the sector were in general agreement with the conclusions of the Commission.

## III

The aids proposed by the Netherlands Government are as follows:

- investment aid:
  - grants of Fl 212 million,
  - a non-subsidized loan of Fl 150 million,
  - a low interest loan of Fl 24 million,
  - acquisition of a shareholding of Fl 130 million (to be regarded as containing an aid element if the subscription price exceeds the stock exchange price of the firm's shares),
  - government guarantees on possible ECSC loans;
- aid for continued operation:
  - a participative loan of Fl 570 million.

To justify the aid, the Netherlands Government has proposed a net capacity reduction for hot-rolled products of 250 000 tonnes, mainly to be achieved by closure of the Demka mill.

## IV

The second indent of Article 2 (1) of Decision No 2320/81/ECSC provides that the restructuring programmes of aided undertakings must result in an overall reduction in their production capacity. The revision of the Netherlands plan since its notification involves a capacity reduction for hot-rolled products of 250 000 tonnes between 1980 and 1985.

<sup>(1)</sup> OJ No L 228, 13. 8. 1981, p. 14.

<sup>(2)</sup> OJ No C 44, 15. 2. 1983, p. 2.

By virtue of the second indent of Article 3 (1) and the third indent of Article 5 (1) of Decision No 2320/81/ECSC, the amount and intensity of investment aid and aid for continued operation must be justified by the extent of the restructuring effort associated with them.

In line with the General Objectives for Steel, an overall reduction Community-wide of 30 to 35 million tonnes of capacity for hot-rolled products is necessary to restore a level of capacity utilization that is considered the minimum required to secure the viability of the Community steel industry under normal market conditions. It is necessary to ensure that this overall capacity reduction is distributed fairly. On this basis, after taking into consideration the restructuring effort to date and the aid granted prior to 1980, an extra effort must be accepted by the Netherlands steel industry. Accordingly, the Netherlands steel industry must reduce its capacity for hot-rolled products by 700 000 tonnes over and above the reduction of 250 000 tonnes proposed. It is necessary to set a deadline by which the additional closures required must be identified.

## V

The Commission must supervise the grant of aids authorized and compliance with the conditions imposed by it.

The capacity reductions must be obtained by the complete closure of plant producing hot-rolled products and the Commission must be able to verify that such closure is definitive. The net capacity reductions take into account any capacity increases that may result from approved investment programmes. To achieve the objective of bringing capacity into line with demand, the creation of new capacity must be compensated by additional closures.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids contribute to restoring viability.

The Commission can only authorize aid for undertakings which have fulfilled all their obligations resulting from the application of the ECSC Treaty.

The authorization of the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas <sup>(1)</sup> under Article 58 of the ECSC Treaty and its extension is considered necessary.

## VI

In view of all the above, the Commission can authorize the aids proposed, subject to observance of the conditions and requirements laid down by it,

HAS ADOPTED THIS DECISION:

### Article 1

The following aids which the Netherlands Government plans to grant to the steel undertakings Hoogovens and Nedstaal are compatible with the orderly functioning of the common market to the extent that the conditions and requirements set out in Articles 2 to 5 are satisfied.

- investment aid:
  - grants of Fl 212 million,
  - a non-subsidized loan of Fl 150 million,
  - a low interest loan of Fl 24 million,
  - acquisition of a shareholding of Fl 130 million (to be regarded as containing an aid element if the subscription price exceeds the stock exchange price of the firm's shares),
  - government guarantees on possible ECSC loans;
- aid for continued operation:
  - a participative loan of Fl 570 million.

### Article 2

1. The undertakings to which it is planned to grant the aids referred to in Article 1 shall carry out further net reductions in their production capacity for hot-rolled products of at least 700 000 tonnes, in addition to the reduction of 250 000 tonnes that has been proposed to justify the aids and to the reductions already accepted as justification for aid authorized by the Commission. The requisite capacity reductions may also be contributed by other undertakings.

2. A list of the plants to be closed, giving the closure dates, and a report of increases in capacity resulting from investment shall be sent to the Commission by 31 January 1984 so that it can satisfy itself that the net reductions specified in the first paragraph will be achieved; the closures shall be implemented by 31 December 1985.

<sup>(1)</sup> OJ No L 191, 1. 7. 1982, p. 1.

*Article 3*

None of the proposed aid shall be paid unless the Commission is satisfied that the undertaking concerned can return to financial viability by the end of 1985.

*Article 4*

1. The aids may be paid only if the Commission is satisfied, on the basis of an application submitted by the Netherlands Government specifying the amount, form and purpose of the aid and the undertaking concerned, that the conditions set out in Articles 2 and 3, or a sufficient part thereof, are met and that the undertaking in question fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas.

2. However, aid that is absolutely necessary for the continued operation of the undertakings concerned until 31 January 1984 may be paid, provided that the undertakings fulfil their obligations in respect of ECSC Treaty rules, in particular those governing production quotas, if the Commission is satisfied, on the basis of an application by the Netherlands Government specifying the amount, form and purpose of the aid, that the conditions set out in Article 2, or a sufficient part thereof, are fulfilled.

*Article 5*

1. The aid for investment may be granted only if the Commission, on the basis of the notification of the investment programmes, where this is required under Commission Decision No 3302/81/ECSC<sup>(1)</sup>, has delivered a favourable opinion on the programmes pursuant to Article 54 of the ECSC Treaty.

2. Such aid shall be disbursed as and when the undertaking incurs expenditure in connection with the investment.

*Article 6*

1. For the purposes of monitoring aid payments for compliance with the conditions and requirements laid down in this Decision, the Commission may require that the six-monthly reports supplied to it under Article 9 of Decision No 2320/81/ECSC contain details of the progress the aided undertakings have made towards achieving financial viability.

2. To enable it to check that investment aid is disbursed in accordance with the provisions of Article 5 (2), the Commission shall be informed at the beginning of each quarter of:

- the expenditure to be incurred by the undertakings during the quarter concerned both in respect of work already done and as payments on account in respect of future work,
- the investment aid to be disbursed during the same period.

3. The Commission may also carry out on-the-spot inspections to verify that the reductions in capacity referred to in Article 2 (1) have been implemented.

*Article 7*

1. Without prejudice to any penalties it may impose by virtue of the ECSC Treaty, the Commission may order the suspension of aid payments if at any time it should find that:

- aid has been paid in disregard of the conditions attached to its authorization in this Decision,
- the six-monthly reports supplied to it give reason to doubt that the undertaking concerned will return to financial viability by the end of 1985; in such a case the Commission may impose additional conditions relating to the restructuring of the undertaking,
- that the aided undertaking has breached its obligations under the provisions of the ECSC Treaty, in particular those governing the system of production quotas established under Article 58 and the rules on pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the infringements committed call for a reduction in the amount of the aid still outstanding.

*Article 8*

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 29 June 1983.

*For the Commission*

Frans ANDRIESEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 333, 20. 11. 1981, p. 35.

## COMMISSION DECISION

of 29 June 1983

concerning the aids that the United Kingdom Government proposes to grant to the steel industry

(Only the English text is authentic)

(83/399/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry <sup>(1)</sup>, and in particular Article 8 (3) thereof,

Having given notice in accordance with Article 8 (3) of the abovementioned Decision, to the parties concerned to submit their comments <sup>(2)</sup>, and having regard to those comments,

Whereas:

## I

By letter dated 29 September 1982, the United Kingdom Government notified the Commission of its intention to grant aids to the British Steel Corporation (BSC). After an initial scrutiny of these aids in the light of the provisions of Decision No 2320/81/ECSC, and on the basis of information provided by the United Kingdom Government, the Commission concluded that BSC's viability was not guaranteed, that there was no capacity reduction proposed to justify the larger part of the aids proposed and that the planned increase of capacity for hot-rolled coils was not compatible with Article 2 (1) of Decision No 2320/81/ECSC, since there was no growth on the market for these products. For these reasons the Commission initiated with respect to the aids proposed the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC. Accordingly, the Commission on 29 November 1982 sent a letter constituting formal notice to the United Kingdom Government to submit its

comments. By means of the same letter the United Kingdom Government was also informed that the Commission had decided to raise no objection to the grant of a tranche of the aids notified in the form of new capital, justified on the basis of a net capacity reduction for hot-rolled products amounting to 404 000 tonnes.

Furthermore, by letter dated 30 September 1982, the United Kingdom Government notified the Commission of its intention to grant aids to the steel firm Sheerness Steel Co. Ltd. After an initial scrutiny of these aids in the light of the criteria laid down in Articles 2 and 3 of Decision No 2320/81/ECSC, the Commission, on the basis of the information in its possession, concluded that there was no capacity reduction proposed to justify the aids. For this reason, the Commission considered that the aids in question were not compatible with the orderly functioning of the common market and therefore initiated, in respect of them, the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC.

Accordingly, the Commission, on 30 November 1982, sent a letter constituting formal notice to the United Kingdom Government to submit its comments.

## II

In its reply dated 15 March 1983 the United Kingdom Government stated that BSC was not expected to break even in 1984/85, that its financial requirement to end 1985 might increase by £ 719 million and that the new Corporate plan for the period 1983 to 1986 was in preparation. By means of the same letter the United Kingdom authorities requested authorization to provide an interim payment of £ 550 million which would allow BSC to continue operations to end June 1983.

By letters dated 10 June and 24 June 1983 respectively, the United Kingdom Government informed the Commission that the aids to Sheerness Steel Co. Ltd would be implemented only if new reductions in capacity

<sup>(1)</sup> OJ No L 228, 13. 8. 1981, p. 14.

<sup>(2)</sup> OJ No C 54, 26. 2. 1983, p. 3 and OJ No C 67, 12. 3. 1983, p. 4.

were made by Sheerness Steel or other United Kingdom steel undertakings.

In their replies, two other Member States and a federation of undertakings of the sector were in general agreement with the conclusions of the Commission. The Commission, by letter dated 8 April 1983, informed the United Kingdom Government that it had decided to raise no objection to the grant of a further tranche of the notified aids to BSC, in the form of new capital, amounting to £ 550 million. A net capacity reduction of 871 000 tonnes in hot-rolled products, of which 300 000 tonnes was still to be identified, justified the authorization of this tranche.

By letter dated 25 May 1983 the United Kingdom Government informed the Commission that it had adapted its initial notification by increasing the total amount of aids to BSC up to the end of 1985 by £ 710 million and identifying a new net capacity reduction of 500 000 tonnes in hot-rolled products.

### III

The total amount of aids to BSC still subject to the procedure of Article 8 (3) of Decision No 2320/81/ECSC amounts to £ 1 474 million. The United Kingdom authorities have not provided a breakdown by objective. The *pro rata* breakdown of this amount would be as follows:

- investment aid:
  - £ 642,6 million in new capital and Regional Development Grants, for total investment costs amounting to £ 665 million;
- aid for closures:
  - £ 203,4 million in new capital;
- aid for continued operation:
  - £ 580,0 million in new capital; and
- aid for research and development:
  - £ 47,2 million in new capital.

The capacity reduction proposed by the United Kingdom Government to justify these aids amounts to 200 000 tonnes of hot-rolled products after taking account of the 300 000 tonnes which remained to be identified from the Commission's last aid authorization.

The investment aids to Sheerness Steel Co. Ltd which are still subject to the procedure of Article 8 (3) of Decision No 2320/81/ECSC are:

- a grant of £ 4 375 000 representing 25 % of eligible costs of the investment programme and constituting a

Category B Assistance under the Private Sector Steel Scheme and,

- a grant of £ 250 000 under the Microprocessor Application Scheme.

The United Kingdom Government has not proposed any capacity reduction to justify these aids.

The aids taken into consideration include State guarantees for any ECSC loans granted.

### IV

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that the recipient undertaking must be engaged in the implementation of a systematic and specific restructuring programme covering the different aspects of restructuring, which is capable of restoring its competitiveness and of making it financially viable without any aid under normal market conditions. In the case of BSC, on the basis of the volume of sales assumptions made by the undertaking itself, with no further reductions in the capacity of production for hot-rolled wide strip, the level of capacity utilization for this product will be about 60 % in 1986. In view of the importance of the production of hot-rolled strip to BSC's activities such a level of capacity utilization does not appear to be sufficient to guarantee the firm's viability.

The second indent of Article 2 (1) provides that the restructuring programme must result in an overall reduction in the production capacity of the recipient undertaking or group of undertakings. According to the returns made by Sheerness Steel Co. Ltd to the Commission's annual investment surveys its capacity to produce hot-rolled products will increase by 170 000 tonnes for the period 1980 to 1985.

The second indent of Article 3 (1) and the third indent of Article 5 (1) provide that the amount and intensity of investment aids and aids to continued operation must be justified by the extent of the restructuring effort involved; moreover, the capacity reductions which are required in order to obtain an overall capacity reduction at a Community level of 30 to 35 million tonnes in hot-rolled products should be distributed fairly; this level of overall capacity reduction is, in view of the General Objectives for Steel, necessary to allow a return to a level of capacity utilization which is considered the minimum required to restore the viability of the Community steel industry under normal market conditions; on this basis and after taking into consideration the restructuring effort made and the aids granted before 1980, a supplementary effort must be accepted by the United Kingdom Steel Industry; therefore BSC should reduce its capacity by 500 000 tonnes of hot-rolled products, over and above

the 200 000 tonnes now remaining to justify the aids proposed; an appropriate net reduction in capacity for hot-rolled products must be proposed in favour of Sheerness Steel Co. Ltd in order to make the aid proposed in favour of it compatible with the orderly functioning of the common market. A deadline should be established for the identification of the additional closures to be provided by BSC and the closures that should be implemented by Sheerness Steel Co. Ltd.

## V

The Commission must supervise the grant of aids authorized and the respect of the conditions imposed by it.

The capacity reductions must be obtained by the complete closure of equipment producing hot-rolled products and the Commission must be able to verify that such closure is definitive. The net capacity reductions take into account any capacity increases that may result from approved investment programmes. In the context of the realization of the objective of adapting the capacity of production to demand, the creation of any new capacity must be compensated by additional closures.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids contribute to restoring viability.

The Commission can only authorize aid for undertakings which have fulfilled the entirety of their obligations resulting from the application of the ECSC Treaty.

The authorization of the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas <sup>(1)</sup> under Article 58 of the ECSC Treaty and its extension is considered necessary.

## VI

In view of all the above, the Commission can authorize the aids proposed for BSC, subject to observance of the conditions and requirements laid down by it; however, it cannot authorize the aids proposed for Sheerness Steel Co. Ltd unless the conditions and requirements laid down in this Decision are fulfilled,

HAS ADOPTED THIS DECISION:

### Article 1

1. The following aids which the United Kingdom Government plans to grant to British Steel Corporation are compatible with the orderly functioning of the common market to the extent that the conditions and requirements set out in Articles 2 to 5 are satisfied:

- investment aid:  
£ 642,6 million of which £ 534,6 million as new capital and £ 108 million as Regional Development Grants;
- aid for closures:  
£ 203,4 million in new capital;
- aid for continued operation:  
£ 580,8 million in new capital and;
- aid for research and development:  
£ 47,2 million in new capital.

2. The following investment aids which the United Kingdom Government plans to grant to Sheerness Steel Co. Ltd are not compatible with the orderly functioning of the common market unless the conditions and requirements set out in Articles 2 to 5 are satisfied:

- a grant of £ 4 375 000 representing 25 % of eligible costs of the investment programme and constituting a Category B Assistance under the Private Sector Steel Scheme, and
- a grant of £ 250 000 under the Microprocessor Application Scheme.

### Article 2

1. (a) The undertaking to which it is planned to grant the aids referred to in Article 1 (1) shall carry out further net reductions in its production capacity for hot-rolled products of at least 500 000 tonnes, in addition to the reduction of 200 000 tonnes that has been proposed to justify the aids and to the reductions already accepted as justification for aid authorized by the Commission. The requisite capacity reductions may also be contributed by other undertakings.

<sup>(1)</sup> OJ No L 191, 1. 7. 1982, p. 1.

- (b) In order that the aids referred to in Article 1 (2) may be compatible with the orderly functioning of the common market, the undertaking to which it is planned to grant the aids shall, as justification for them, carry out appropriate net reductions in its production capacity for hot-rolled products. The requisite capacity reductions may also be contributed by other undertakings.

2. A list of the plants to be closed, giving the closure dates, and a report of increases in capacity resulting from investment shall be sent to the Commission by 31 January 1984 so that it can satisfy itself that the net reductions specified in the first paragraph will be achieved; the closures shall be implemented by 31 December 1985.

#### Article 3

None of the proposed aid shall be paid unless the Commission is satisfied that the undertaking concerned can return to financial viability by the end of 1985.

#### Article 4

1. The aids may be paid only if the Commission is satisfied, on the basis of an application submitted by the United Kingdom Government specifying the amount, form and purpose of the aid and the undertaking concerned, that the conditions set out in Articles 2 and 3, or a sufficient part thereof, are fulfilled and that the undertaking in question fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas.

2. However, aid that is absolutely necessary for the continued operation of the undertaking referred to in Article 1 (1) until 31 January 1984 may be paid, provided that the undertaking fulfils its obligations in respect of ECSC Treaty rules, in particular those governing production quotas, if the Commission is satisfied, on the basis of an application by the United Kingdom Government specifying the amount, form and purpose of the aid, that the conditions set out in Article 2, or a sufficient part thereof, are fulfilled.

#### Article 5

1. The aid for investment may be granted only if the Commission, on the basis of the notification of the

investment programmes, where this is required under Commission Decision No 3302/81/ECSC <sup>(1)</sup> has delivered a favourable opinion on the programmes pursuant to Article 54 of the ECSC Treaty.

2. Such aid shall be disbursed as and when the undertaking incurs expenditure in connection with the investment.

#### Article 6

1. For the purposes of monitoring aid payments for compliance with the conditions and requirements laid down in this Decision, the Commission may require that the six-monthly reports supplied to it under Article 9 of Decision No 2320/81/ECSC contain details of the progress the aided undertakings have made towards achieving financial viability.

2. To enable it to check that investment aid is disbursed in accordance with the provisions of Article 5 (2) of this Decision, the Commission shall be informed at the beginning of each quarter of:

- the expenditure to be incurred by the undertakings during the quarter concerned both in respect of work already done and as payments on account in respect of future work,
- the investment aid to be disbursed during the same period.

3. The Commission may also carry out on-the-spot inspections to verify that the reductions in capacity referred to in Article 2 (1) have been implemented.

#### Article 7

1. Without prejudice to any penalties it may impose by virtue of the ECSC Treaty, the Commission may order the suspension of aid payments if at any time it should find that:

- aid has been paid in disregard of the conditions attached to its authorization in this Decision,
- the six-monthly reports supplied to it give reason to doubt that the undertaking concerned will return to financial viability by the end of 1985; in such a case the Commission may impose additional conditions relating to the restructuring of the undertaking,

<sup>(1)</sup> OJ No L 333, 20. 11. 1981, p. 35.

- that the aided undertaking has breached its obligations under the provisions of the ECSC Treaty, in particular those governing the system of production quotas established under Article 58 and the rules on pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the infringements committed call for a reduction in the amount of the aid still outstanding.

*Article 8*

This Decision is addressed to the United Kingdom.

Done at Brussels, 29 June 1983.

*For the Commission*

Frans ANDRIESEN

*Member of the Commission*

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