

COMMISSION OF THE EUROPEAN COMMUNITIES

C(80) 97 final

Com

Brussels, 1 February 1980

DECISION No 80/ECSC OF THE COMMISSION

of 1 February 1980

establishing Community rules for specific aids to the steel
industry

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THE COMMISSION OF THE EUROPEAN COMMUNITY

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular the first and second paragraphs of Article 95 thereof,

Having consulted the Consultative Committee and with the unanimous assent of the Council,

Whereas :

I

In order to ensure the orderly functioning of the common market, the adaptation of the steel industry's production capacity to foreseeable demand and the restoration of competitiveness to the industry by means of the extension, modernization and rationalization of plant with the best prospects for viability must be carried out in an orderly and socially acceptable fashion.

In view of current market conditions almost all steel undertakings lack the funds required for these restructuring measures, and the Community also lacks the necessary funds to fill the gap. Yet, to forego any restructuring scheme would jeopardize attainment of the basic objective of the second paragraph of Article 2 of the ECSC Treaty and of the more specific objectives of Article 3(c), (d), (e) and (g). In these circumstances provision must be made for financing by the Member States of specific aids for the steel industry which, if they are to retain a Community character, must remain consistent with the Community guidelines in this field. The prohibition on subsidies or aids granted by States does not preclude such

action. For it is clear from the general context of the Treaty that this prohibition must be construed as applying to measures constituting purely national steel policy instruments and not to aids aimed at setting up a Community steel policy or promoting the aims and objectives of the Treaty.

The Community thus finds itself faced with a situation not specifically provided for in the Treaty, and yet requiring action. In these circumstances recourse must be had to the first paragraph of Article 95, so as to enable the Community to pursue the objectives set out in the initial Articles of the Treaty.

Under a Community-wide aid scheme it is necessary to ensure that all aids granted to the steel industry are covered by the same Community rules. The present Decision, however, may be restricted to specific aids only, since application to the steel industry of general and regional aid schemes is subject to constant review by the Commission pursuant to Article 67 of the ECSC Treaty and Articles 92 and 93 of the EEC Treaty.

II

In the endeavour to attain the above objectives the following principles must be respected :

- i) any form of aid must promote restructuring and take account of its regional and social repercussions;
- ii) aid must not provoke distortions of competition contrary to the common interest;
- iii) aid must be restricted in duration and intensity;
- iv) all forms of aid must be transparent;
- v) when assessing aid no discrimination must be practised between undertakings, notably on account of their ownership, whether public or private. The Commission's scrutiny of elements of aid contained in financing measures taken by Member States to benefit their public-sector firms cannot result in control by it of the structure of the Member States' economic systems;
- vi) when making assessments of aids there must be no discrimination between national, regional and local aids.

Suitable criteria must be drawn up for each category of aid on the basis of these principles and with a view to the respective objectives. Criteria must be drawn up for investment aids, aids to cover expenses arising from closures, aid to continued operation and emergency rescue aid.

III

Appropriate procedures must be established to ensure observance of the conditions of compatibility laid down by this Decision for the various types of aid, having regard to the repercussions of the aids on the orderly functioning of the market.

Implementation of this Decision requires close cooperation between the Commission and the Member States, covering both aids whose compatibility raises no problem and cases giving rise to dispute.

The economic and social situation in the Community in general and the situation in the steel industry in particular are such that this Decision should be applied until 31 December 1981,

HAS ADOPTED THIS DECISION :

Article 1

1. Specific aids to the steel industry financed by Member States or through State resources in any form whatsoever may be considered Community aids and therefore compatible with the orderly functioning of the common market if they satisfy the provisions of this Decision and do not affect competition and trade between Member States to an extent contrary to the common interest. Such aids shall only be put into effect in accordance with the procedures established herein.
2. For the purposes of this Decision the word "aids" means those aids granted pursuant to legislative or administrative provisions the object or effect of which is principally to benefit steel undertakings.
3. The concept of aid includes aid granted by regional or local authorities and 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.

Article 2

Aids in support of investment in the steel industry may be considered compatible with the orderly functioning of the common market provided that:

- the Commission has received prior notification of the investment programme concerned as required by High Authority Decision No 22/66 of 16 November 1966 on information to be furnished by undertakings about their investments (*), as amended by Decision No 2237/73 (ECSC) (**) or by any subsequent Decision;
- the amount and intensity of aid are justified by the extent of the restructuring effort involved, account being taken of the structural problems of the region where the investment is to be undertaken, and are limited to what is necessary for this purpose;
- the investment programme takes account of the general criteria for the restructuring of the steel industry defined by the Commission after consulting the Member States and of the general objectives for steel, having regard to any reasoned opinion which the Commission may have issued on the investment programme concerned.

(*) OJ No 219, 29.11.1966, p. 3728/66.
(**) OJ No L 229, 17.08.1973, p. 28.

Article 3

1. Aid to defray the normal costs resulting from the partial or total closure of steel plants may be considered compatible with the orderly functioning of the common market.
2. The costs eligible for such aid shall be the following:
 - payments to workers made redundant or retired before legal retirement age, where such payments are not to be met by contributions pursuant to Article 56(1)(c) or (2)(b) of the Treaty;
 - payments due to third parties in respect of the termination of contracts, in particular for the supply of raw materials;
 - expenditure incurred for the redevelopment of the site, the buildings and/or the infrastructures of closed steel plant for alternative industrial use.
3. Member States shall, with effect from 1 September 1980 submit six-monthly reports to the Commission on aid decided upon in the course of the previous six months. These six-monthly reports, in the form of a table modelled on that given in the Annex, must be forwarded within two months from the end of each six-month period.

Article 4

Aids to facilitate the continued operation of certain undertakings or plants may be considered compatible with the orderly functioning of the common market provided that:

- they form an integral part of a restructuring programme designed to assist the undertaking or plant in question to become competitive and able to operate without aid, the said restructuring programme taking into account the general criteria for the restructuring of the steel industry referred to in Article 2, third indent;
- they are of limited duration or are progressively reduced at a sufficient rate for them to be eliminated within a reasonable period, having regard to the restructuring programme undertaken;
- they are limited in intensity and amount to what is absolutely necessary in order to enable continued operation during the period of restructuring.

2. In its examination of such aids the Commission shall take account of the problems facing the production unit or units in question and the region or regions concerned, and of the secondary effects of the aid on competition on markets other than the steel market, for instance the transport market.

Article 5

Emergency aids intended as a temporary solution for the rescue of an undertaking pending a definitive solution to the problems of the undertaking concerned may be considered compatible with the orderly functioning of the common market only in cases where, having regard to their scope and nature, they are required in order to cope with acute social problems.

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Article 6

1. Pursuant to Articles 67(1) and 86 of the Treaty, the Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aids as referred to in Articles 2, 4 and 5. The Member State concerned shall put its proposed measures into effect only with the approval of and subject to any conditions laid down by the Commission.
2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that the aid is incompatible with the provisions of this Decision, it shall inform the Member State concerned of its decision.

Article 88 of the Treaty shall apply in the event of failure to comply with this decision.

3. When a period of two months following the date of receipt of the notification of the plan in question has elapsed without the Commission having initiated the procedure provided for in paragraph 2 or otherwise having made its views known, the measures planned may be put into effect, provided that the Member State has given prior notice to the Commission of its intention to do so.
4. The Commission shall act as rapidly as possible having regard to the urgency of each case.

The Commission shall give a decision on aid schemes and shall request notification of actual instances of application only when this proves necessary to ensure that such aid is compatible with the provisions of this Decision.

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Article 7

The Commission may seek the views of the Member States on the more important aid plans notified to it before adopting a position on them.

Article 8

The Commission shall regularly prepare reports on the implementation of this Decision for the Council and for the information of the European Parliament.

Article 9

The Commission may, with the unanimous assent of the Council and after consulting the Consultative Committee, amend this Decision in due course so as to take account in particular of changes in the other Community policies concerning the iron and steel sector.

Article 10

This Decision shall apply until 31 December 1981.

This Decision shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1 February 1980

For the Commission

Raymond VOUEL

Member of the Commission

Table of aids for closures in accordance with Article 3

Identification of the undertaking or plant closed	Nature of the costs resulting from the closure	Amount of such costs	Amount of the aid	Details of the aid