

# COMMISSION OF THE EUROPEAN COMMUNITIES

C(81) 744 final

Brussels, 25th May 1981

## DRAFT COMMISSION DECISION

establishing Community rules for aids to the  
steel industry

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C(81) 744 final

## EXPLANATORY MEMORANDUM

### COMMUNITY RULES FOR AIDS TO THE STEEL INDUSTRY

At the Council's meeting on 26/27 March 1981 the Commission undertook to prepare a new Decision to replace Decision no 257/80/ECSC by 30 June 1981. A draft for this new Decision has now been prepared. It is based on experience gained in the implementation of the current Decision in the context of the worsening crisis and of the financial consequences this has had for steel undertakings, and on the principles of the Council's resolution of 26/27 March 1981.

The draft Decision has the objective of strengthening the existing rules, in particular by tightening the criteria so as to ensure a definite link between aid and restructuring and by providing for the progressive reduction of aid levels and for the abolition of all aids within a relatively short period. A further objective has been to secure full transparency.

Concretely, the draft Decision envisaged by the Commission differs from the existing Decision in the following respects :

(i) Field of application

It would apply to all aids. The present arrangements for examining specific and non-specific aids on different legal bases are workable, but in order to ensure a fully coherent aid discipline, to avoid procedural difficulties and to demonstrate the clear will of the Community to subject all aids to the same rules it is desirable that the new Decision should apply also to general and regional aids.

(ii) Criteria

The draft Decision includes an Article establishing general rules to apply to all aids in addition to the rules for each type of aid. These general rules include provisions specifying that in order to qualify for aids undertakings or groups of undertakings must be engaged in industrial and, where necessary, financial restructuring and that the restructuring plan must provide for a reduction in capacity.

Moreover, there is also provision for the progressive reduction of the amount and intensity of aid and for aids not to affect trading conditions to an extent contrary to the common interest (i.e. they must not be liable to result in price reductions or to maintain unjustifiably low prices). These provisions are of general application, the only exception being emergency aids which may be necessary pending the implementation of a restructuring plan. However, the latter aids must have a limited duration (six months), must also not affect trading conditions to an extent contrary to the common interest and may not be introduced after 30 June 1982. The effect of these provisions is to give undertakings a period of about a year in which to prepare a restructuring plan while severely limiting the impact on the market of any emergency aid.

Important modifications as regards the specific Articles concerning other categories of aid include the following :

Investment aid

An extension to the present criteria to subject aids for minor investment programmes (i.e. those that do not have to be notified to the Commission for an opinion under Article 54) to the same criteria as apply to aids for important investment programmes.

Aid to continued operation

A reinforcement of the criteria to limit the period for which such aid can be paid to two years, to ensure the progressive reduction of aids during this period and to strengthen the link with restructuring.

Research and development aids

The introduction of a new Article subjecting these aids to the new rules. These aids were not previously covered and experience suggests that they can be of importance.

(iii) Procedures

For procedures, transparency is reinforced by requiring multilateral consultation on all important aid cases and by providing for all Member States to be informed of all positions taken by the Commission, a practice the Commission has already adopted.

Provision is also be made for the Commission to make biannual enquiries to monitor the implementation of aid schemes and the results achieved in particular as regards restructuring. This monitoring procedure will also enable the Commission to verify that aids are progressively reduced.

When applying these new rules, the Commission will systematically make its authorization of aids subject to the conditions that the Member State concerned :

- pays the aid to the beneficiary undertaking in successive tranches;
- ensures that the beneficiary undertaking effectively implements the restructuring programme including the overall reduction in capacity referred to in Article 2 of the Decision.

If the aid is not used in conformity with the authorization in question, the latter will cease to be valid with retroactive effect. The Commission will specify these conditions in each of its decisions to authorise an aid.

(iv) Timetable

A timetable is to be established for the phasing out of all aid to steel. The following are the key dates included in the new Decision :

- 30 June 1982 is the final date on which emergency aids may be put into effect;
- 31 December 1982 is the deadline for making notifications to the Commission;
- 1 July 1983 is the last date on which aids (other than emergency aids) approved by the Commission may be put into effect;
- 31 December 1984 is the terminal date for payment of aids to continued operation; and
- 31 December 1985 is the terminal date for payment of all other aids except for guarantees and interest rebates on loans.

The Decision would apply until 31 December 1985, so that the only aids that could be paid during the period from 1 July 1983 to 31 December 1985 would be those already authorized by the Commission prior to the earlier date.

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COMMISSION DECISION No. /81/ECSC

of 1981

establishing Community rules for aids to the steel industry

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Whereas :

HAS ADOPTED THIS DECISION :

Article 1

1. Aids to the steel industry, whether specific or non-specific, 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 respect the general rules set out in Article 2 of this Decision and satisfy the provisions of Articles 3 to 7 of this Decision. Such aids shall only be put into effect in accordance with the procedures established herein.

2. 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 market economy.

Article 2

General rules

1. Aids granted to the steel industry may be considered compatible with the orderly functioning of the common market provided that :

- the beneficiary undertaking or group of undertakings is engaged in the implementation of a systematic restructuring programme including, where necessary, financial restructuring and designed to restore its competitiveness and to make it financially viable without aid in normal market conditions,
- the said restructuring programme results in an overall reduction in the production capacity of the beneficiary undertaking or group of undertakings and does not increase capacity for the various categories of products contrary to the common interest,
- the amount and intensity of the aids granted to steel undertakings are progressively reduced,
- the aids in question do not affect trading conditions to an extent contrary to the common interest,

- they are not granted later than 1 July 1983 and do not lead to aid payments after 31 December 1985, other than by way of interest rebates or of payments to honour guarantees on loans.

2. In its examination of the amount and intensity of planned aids the Commission shall take account of any other aids granted to the undertaking concerned and of any restructuring undertaken by it since 1 January 1975.

Article 3

Investment Aid

1. 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 where this is required by High Authority Decision No 22/66 of 16 November 1966 on information to be furnished by undertakings about their investments (1), as amended by Decision No 2237/73/ECSC (2), 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.

2. In its examination of such aids the Commission shall take account of the extent of the contribution of the investment programme concerned to other Community objectives, for instance innovation, energy saving and environmental protection.

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(1) OJ No 219, 29.11.1966, p. 3728/66.  
 (2) OJ No L 229, 17.8.1973, p. 28.

Article 4

Aid for closures

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 infrastructures of closed steel plant for alternative industrial use.

3. Exceptionally and in derogation from Article 8, paragraph 1 and Article 2, paragraph 1, fifth indent, aids for closures which could not be foreseen in programmes notified before 31 December 1982 may be notified to the Commission after this date and be granted after 1 July 1983.

Article 5

Aid to continued operation

1. 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 systematic and specific restructuring programme covering the various aspects of restructuring and designed to assist the undertaking or plant in question to become competitive and able to operate without aid as soon as possible, the said restructuring programme taking into account the general criteria for the restructuring of the steel industry referred to in Article 3(1), third indent,
- their duration is limited to a maximum of two years, they are proportionately reduced at least once each year, and they do not lead to payments after 31 December 1984,
- they are limited in intensity and amount to what is absolutely neces-

sary 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 6

#### Emergency aid

1. 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. Such aids shall not have a duration exceeding six months and shall not affect trading conditions to an extent contrary to the common interest.

2. In derogation from the provisions of Article 1 (1) of this Decision, the provisions of Article 2 (1) shall not apply to emergency aids.

3. Emergency aid may not be put into effect after 30 June 1982.

Article 7Aid for research and development

1. Aid in support of expenditure by steel undertakings on research and development projects may be considered compatible with the orderly functioning of the common market provided that the research and/or development project in question has one of the following objectives :

- a reduction in the costs of production (including energy-saving) or an improvement in productivity;
- an improvement in product quality;
- an improvement in the performance of steel products in use or an increase in the range of uses of steel;
- an improvement in the health and safety of work.

2. The total amount of the aid does not exceed 50 % of the eligible costs of the project. The costs eligible for such aid shall be the costs directly associated with the project in question and shall exclude in particular all expenditure on investment related to production processes.

Article 8

1. 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 3 to 7. In any event such notification must be made no later than 31 December 1982.

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. The Commission shall seek the views of the Member States on the more important aid plans notified to it before adopting a position on them. It shall inform all Member States of the position adopted by it on each aid plan.

3. 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.

4. 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 3 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.

5. 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.

#### Article 9

Member States shall supply the Commission twice a year with reports on aid payments made in the course of the preceding six months, on the uses made of these payments and on the results achieved during the same period in particular as regards restructuring. These reports shall include details of financial measures taken by Member States or by regional or local authorities in respect of public steel undertakings.

These reports shall be supplied within two months of the end of each six months period in a form to be determined by the Commission. The first of these reports will concern aid payments during the second half of 1981.

Article 10

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

Article 11

1. 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 or of fundamental changes in the market.

2. The Commission may, after consulting the Council and the Consultative Committee, adopt provisions derogating from this Decision in order to ensure that the implementation of this Decision in the case of non-specific aid systems does not result in discrimination against steel undertakings in comparison with other undertakings eligible for aids under these systems, it being understood that the principles contained in Article 2, paragraph 1, first to fourth indents remain applicable.

Article 12

This Decision replaces Commission Decision No. 257/80/ECSC of 1 February 1980 establishing Community rules for specific aids to the steel industry.

This Decision shall apply until 31 December 1985.