# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 34 final

Brussels, 5th February 1982

SECOND REPORT ON THE APPLICATION OF THE RULES
FOR AIDS TO THE STEEL INDUSTRY

(Communication from the Commission to the Council)

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SECOND REPORT ON THE APPLICATION OF THE RULES FOR AIDS TO THE STEEL INDUSTRY

1. INTRODUCTION

1.1. Article 10 of the Decision No 2320/81/ECSC requires the Commission to prepare regular reports on the implementation of that Decision for the Council and for the information of the European Parliament.

1.2. The first Report on the application of the rules for aid to the steel industry (COM(81) 71 final) covered aid notifications received under the preceding Decision No 257/80/ECSC, up to 13 February 1981. It also included an Annex giving details of aids and interventions prior to the entry into force (1 February 1980) of that Decision.

1.3. The present report covers the period from 14 February 1981 to 31 December 1981. It deals with aids which fell to be considered under both Decision No 257/80/ECSC and Decision No 2320/81/ECSC, the latter of which came into force on 7 August 1981.

1.4. During the period under review, two multilateral meetings were held, in March and in October. The aids examined in these meetings were those proposed by Belgium, Germany, France, Luxembourg and the United Kingdom, all of which appear in Section 3 of this report. Article 8(2) of Decision No 2320/81/ECSC requires the Commission to seek the views of Member States on the more important aid plans notified to it; multilateral meetings provide the most appropriate forum for carrying out this duty.

1.5. In its Resolution of 3 March 1981 the Council asked the Commission to prepare a report on past aids to the steel industry. The Commission, in co-operation with Member States, established a detailed questionnaire to provide the basic data on aids granted in the period 1975-1980. Eight Member States have so far submitted their replies to the questionnaire. The Commission has completed an interim report based on these replies, and this has been discussed with national experts in a multilateral meeting. A final version of this report will be submitted to the Council in the near future.

1.6. During the period covered by the present report (14.2.1981 to 31.12.1981) the Commission approved aid proposals concerning five individual investment projects and two more general aid schemes as well as one emergency aid. It initiated procedures in 10 cases; in one of these the procedure was later closed while in two others, part of the proposed aid was authorized, the procedure remaining in force as regards the rest. Four notifications were received which are as yet at the first stage of examination; a first tranche of aid has been approved as an urgent measure in one of them. In addition, procedures were initiated in three cases in respect of infringements of procedural requirements.

1.7. The end of the period of this report coincides with the final date established by Article 8(3) of Decision no 2320/81/ECSC for the approval of emergency aids. The emergency aids mentioned herein therefore represent all the aids of this kind which will be approved by the Commission during the life of the Decision.

1.8. In the report which follows, Section 2 gives details of aids for particular investment projects. In Section 3, wider-ranging aid schemes are dealt with and Section 4 is concerned with the cases involving infringement of procedural requirements.

AIDS EXAMINED BY THE COMMISSION FEBRUARY-DECEMBER 1981

2. Aids for particular investment projects

2.1. Aids approved by the Commission

2.1.1. Federal Republic of Germany: The Commission decided in June 1981 to raise no objection to a proposal of the German Government to provide aids for the construction of a centralized coke and pig-iron production unit for the steel industry in the Saar[1]. As a result of the scheme, which was to be completed, in three stages, by 1988, all other pig-iron plants would close, the number of blast furnaces would be reduced from 17 to 3 and pig-iron production would be reduced by some 20 %. The cost of the investment was estimated at DM 923 m. The aids envisaged were conditionally repayable grants of DM 200 m, provided jointly by the Federal and the Land Governments, and regional grants at 8.75 %, all to be paid in the period 1980-1984, that is, during the first two stages of the project. The Commission estimated that the net grant equivalent of these aids was of the order of 20 %.

[1] See First Report on the application of the rules for aids to the steel industry (COM(81) 71 final, point 2.3.1.).

This project was notified to the Commission under Decision No 22/66 and received a favourable opinion . Since it involved the creation of a new company owned jointly by two existing companies, it required approval under Article 66 ECSC; this approval was given.

The Commission confined its examination to the first two stages of the project, considering that the third stage (1984-88) was too far in the future to be realistically assessed at present. In view of the importance of the restructuring effort, the capacity reduction and the contribution which the project was expected to make to the overall competitiveness of the Saarland industry, and taking account of the structural problems of the Saar region, the Commission considered that the aids complied with the requirements of Article 2 of Decision No 257/80/ECSC.

2.1.2. France: The French Government notified an aid for an investment programme to be carried out by Solmer at its Fos-sur-Mer plant. The programme, costing FF 345 m in total, involved recovery of LD converter gas, the refurbishing of a blast furnace and the installation of a reheating furnace for a hot rolling mill. The effect of the programme would be an increase of capacity for coils at Fos-sur-Mer, but there would be a considerable net decrease of capacity through reductions at two other plants. The scheme received a favourable opinion from the Commission under Article 54 ECSC, and an ECSC loan of FF 172.5 m was accorded to it.

The proposed aids were a grant of FF 21.6 m from the Agence pour les économies d'Energie for the gas recovery project and a State guarantee of the ECSC loan. In view of the overall capacity reduction and the low intensity of the aids (c. 6% in net grant equivalent) the Commission decided in April to raise no objections to the proposed aids.

2.1.3. Luxembourg: In March 1981 the Luxembourg Government notified the Commission of a proposal to provide aid under the Economic Expansion Law of 1973 in favour of an investment in a new plant at Dudelange for the production of coated sheets and aluminised sheets. The investment programme had been notified in the context of Decision No 22/66. The new unit would have a capacity of about 150 000 tonnes per year, and the total investment cost was estimated at F.Lux 1 300 million. The aids proposed were a grant of 12.5% of the investment cost plus a partial tax exemption for eight years, amounting to not more than 10% of the investment cost. Although the value of the tax exemption was impossible to calculate exactly, the Commission considered that the two aids together would represent something less than 15% net grant equivalent. In deciding, in June 1981, to raise no objection to the proposals, the Commission took account of the fact that the new plant, which would receive its supplies of sheet from the works of its parent companies in Belgium and Luxembourg, would have no effect on production capacity for crude steel or rolled products. Its products would be of a new type, with specific qualities which were liable to extend the range of uses of steel. In view of the effort of diversification and restructuring involved, the Commission considered that the amount and intensity of the aid was justified under the rules of Decision No 257/80/ECSC. It nevertheless indicated to the Luxembourg Government that it reserved the right to take account of this aid in its examination of the overall proposals for the restructuring of the Luxembourg steel industry.

2.1.4. Netherlands: The Netherlands' Government notified the Commission of proposals to provide aid towards an investment in new coking plant at Ijmuiden. One section of the existing coking capacity there had become obsolete; part of it had already been closed and the rest, the efficiency of which was greatly reduced, would have to be closed within a few years. Coking capacity had in consequence fallen from some 1.2 m tonnes per year to about 0.65 m tonnes. The investment aimed to replace the obsolete works with a new plant which would restore capacity to the original level, by means of a programme to be carried out over the period 1980-1986 at a total cost of HFL 440 m. This programme had already received a favourable opinion in the context of Article 54 ECSC. The proposed aid took the form of a State guarantee on a bank loan of HFL 200 m advanced at market rate for a period of 13 years, with a 5-year grace period, and a grant of 9% of the total investment cost, up to a maximum of HFL 40 m.

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The Commission examined this proposal in the light of the provisions of Decision No 257/80/ECSC, and in particular Article 2 thereof. It took into account that without the new investment the undertaking's coking capacity would be insufficient for its internal needs, and this in a situation where the growing obsolescence of coking capacity in the Community threatened to create a shortage of coke supplies in the near future. The Commission concluded that, in these circumstances, and considering the relatively low intensity of the aids (estimated at about 9% net grant equivalent), the proposal could be regarded as meeting the criteria of the Decision.

2.1.5. United Kingdom:

A proposal to grant aid to a private sector special steel producer in the United Kingdom was mentioned in the first report (point 2.3.3.). The project concerned envisaged the concentration of special steels production in three plants and the closure of a fourth, less efficient, plant. Reductions of capacity of the order of 40% for crude steel and 20% for light sections would result. The cost of project was put at £ 1.67 m for new investment and relocation of existing plant and £ 1.2 m to meet redundancy costs arising from workforce reductions. The Commission had already decided to grant an Article 54 ECSC loan at reduced interest for 50% of the re-equipment and relocation costs.

The United Kingdom Government proposed to provide a grant payable over 2 years under the regional aid system and an exchange risk guarantee in respect of the ECSC loan. These two aids had a combined net grant equivalent of about 15%, which, added to the ECSC aid, gave a total net grant equivalent of just over 16%. No aid was to be provided for the redundancy costs.

The Commission decided to raise no objection to these aids, which had a clear link with a restructuring programme, and whose intensity was not excessive considering the extent of the modernization and of the capacity reductions involved.

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2.2. Aids subject to a procedure or at first stage of examination

2.2.1. Belgium: Three individual cases of aid for investments by steel undertakings were notified and are receiving their first examination by the Commission.

2.2.2. Federal Republic of Germany:

In October the German Government notified the Commission of proposed aids in respect of investment programmes for four undertakings. These aids, to be granted under the Kreditanstalt für Wiederaufbau Sonderprogramm 1981/82 are in the form of reduced-interest loans and are of low intensity and volume. However, the notification gave inadequate details of the investments and gave no information about the beneficiary undertakings' restructuring programmes. On the basis of the information given, the Commission considered that two of the investment programmes were notifiable under Decision No 22/66, though no such notification had been made. One of the companies concerned was to receive a separate aid for the same investment amounting to some 15 % of costs, but the nature of this aid was not specified. In these circumstances, the Commission was not in a position to assess the compatibility of the proposed aids with Articles 2 and 3 of Decision No 2320/81/ECSC and was obliged to initiate the Article 8(3) procedure.

Three individual proposals for investment aids for steel enterprises in Berlin, Nordrhein-Westfalen and Baden-Württemberg were notified to the Commission. At 31 December 1981 the Commission had not completed its initial examination of two of these; for the third (Nordrhein-Westfalen) it was awaiting a reply to questions posed to the German Government.

3. Wider-ranging aid schemes

3.1. Schemes approved by the Commission

3.1.1. Denmark:

In May 1981 the Danish Government notified the Commission of a plan for the financial reconstruction of Det Danske Stålvalseværk (DDS).

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DDS has for some years been carrying out a major restructuring programme to replace open hearth with electric steelmaking, to introduce continuous casting and to increase its plate capacity. The Danish Government provided aid towards this programme in 1978 and 1980, by a contribution of subordinated loan capital (Dkr 108 m on each occasion)[1]. The Commission approved the 1980 aid under Article 4 of the Decision No 257/80/ECSC, on condition that the company closed its medium section mill by mid-1982. This mill was in fact closed in January 1981.

The financial restructuring proposed in May 1981 involved the company's private shareholders and bankers as well as the State. The private shareholders agreed to write off two-thirds of their existing capital and to contribute Dkr 54 of new capital. The company's Danish bankers agreed to write off some long-term loans, to convert others to subordinated loan capital and to postpone interest and principal repayments on the remainder for 5 years, and its foreign bankers also postponed repayments for 5 years. The State proposed to write off DK 144 m of existing subordinated loan capital, to subscribe Dkr 54 m of new share capital and Dkr 162 m of new subordinated loan capital and to take over existing guaranteed debts of Dkr 207 m.

The Commission considered the proposal under Decision No 257/80/ECSC and with reference to the Council's Resolution of 26/27 March 1981. The financial reconstruction was regarded as part of DDS's continuing restructuring programme. It was noted that a 14% workforce reduction was also proposed. The Commission nevertheless had reservations about the extent to which DDS, even after restructuring and the re-ordering of its finances, would be able to become competitive and to operate in the future without State aid.

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[1] (COM(81)71 Final, point 2.2.2. and Annex).

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It was concerned about the competitiveness of DDS's plate mill, which operates in a market characterised by a considerable structural overcapacity. The Commission therefore concluded that while it could accept the aid aspects of the proposed financial reconstruction, particularly in the light of the part of the Council Resolution which later became Article 2(3)[1] of Decision No 2920/81/ECSC, it could only do so on condition that these longer-term problems received urgent attention. Accordingly, it made its approval subject to the Danish Government's agreement to the appointment of a firm of consultants to study DDS's prospects of viability and to make proposals on appropriate measures to be taken by the company. The first conclusions of this study are to be available in June 1982, and on the basis of these the Commission may make recommendations to DDS. This exercise will be repeated in 1983 and 1984. In the meantime, DDS is to seek synergy with other steel undertakings, and will until the end of 1985 restrict its light section and plate production to any voluntary or mandatory quotas which may be in force. If such quota arrangements cease to exist, the Commission will itself establish production quotas for DDS in consultation with the company.

The Danish Government indicated its acceptance of these conditions at the end of July 1981.

3.1.2. United Kingdom: In March the United Kingdom Government notified the Commission of its proposals for the funding of the British Steel Corporation (BSC) for the year 1981/82. The funding amounted to £ 730 m, and was intended to cover investment costs, redundancy costs, increases in working capital and to meet anticipated operating losses. The funding was associated with a Corporate Plan for 1981/82 which entailed further major reductions in the workforce and the closure of some installations. Although it recognized the importance of the measures already taken towards the restructuring of BSC, the Commission considered that the proposed reduction in crude steel capacity (0.9 m tonnes) was inadequate given the fact that it was intended to maintain some 6.5 m tonnes in reserve, and that the volume of aid was excessive in comparison with the

[1] This Article states that in assessing aids the Commission will "take account of the special situation of Member States having only one steel undertaking whose effect on the Community market is minimal".

further restructuring to be carried out. Accordingly while raising no objection to the closure aids it decided in May 1981 to initiate the procedure of Article 6(2) of Decision No 257/80/ECSC in respect of the remainder (£ 550 m).

In its reply to the procedure, the United Kingdom Government presented some new arguments and asked the Commission to approve a further £ 190 m of the proposed funding, to meet the immediate financial needs of BSC in the period up to 31 October 1981. The Commission agreed to this request. In doing so, it noted that, apart from the 0.9 m tonne crude steel capacity reduction within BSC, there would be a similar reduction in the private sector steel industry in the United Kingdom in 1981/82, which could be taken into account in the context of the Council's Resolution of 26/27 March 1981. It also took into consideration that BSC was developping a plan which would establish the structural objectives of the Corporation for the three years 1982/3-84/5. It imposed three conditions for its approval of the £ 190 m:- advances to BSC to be limited to what was strictly necessary and monthly reports on these, with justification, to be supplied to the Commission; the economic assumptions underlying the 3-year plan to be discussed with the Commission by the end of September and the plan itself to be sent to the Commission before the United Kingdom Government took any decision on it; and crude steel output to be limited to 13.9 m tonnes in 1981/2 unless the Commission gave prior authorization to exceed that figure.

In November, the Commission approved the remaining £ 360 m and closed the Article 6(2) procedure. By this time, all the plant closures and workforce reductions foreseen in the 1981/82 plan had been effected. It had also become clear that a considerable reduction in finished products capacity had taken place within BSC. The financial performance of the Corporation, although still not satisfactory, was beginning to improve, reflecting a degree of success of the measures taken to increase productivity and competitiveness. In addition, the Commission considered that the economic assumptions of the 3-year plan, which it had discussed with the United Kingdom authorities, represented a realistic planning framework for BSC's future activities. The Commission's approval, given in the light of Articles 2, 3 and 5 of Decision No 2320/81/ECSC, carried the same conditions as the approval of the preceding tranche, to the extent that these remained appropriate.

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3.2. Schemes subject to procedure or at first stage of examination

3.2.1. Belgium: The first report[1] outlined the Commission's reasons for initiating (in December 1980) the Article 93(2) EEC procedure in respect of certain aids proposed by the Belgian Government for 'strategic' and 'minor' investment programmes and emergency aids for undertakings in the Triangle de Charleroi.

In April 1981, the Commission extended this procedure to take in also further proposed emergency aids in the form of guarantees of loans of about Bfrs 6.5 billion. Given its doubts about the general restructuring aids in respect of which it had initiated the procedure in December, and in the absence of clear indications of the proposed future capacity of the Belgian steel industry, the Commission found it impossible to take a coherent view of the new emergency aids. It noted that these aids would represent the second or the third grant of emergency aid to certain of the enterprises concerned. The major beneficiaries of the new aids were Cockerill and Hainault-Sambre, for which, as the Commission was aware, a merger plan was in preparation. The lack of any information about the probable effects of this plan on overall steel capacity in Belgium also contributed to the difficulty of making a full appreciation of the new aids.

These procedures were still in force when the Belgian Government notified the Commission, in June 1981, of its proposals as regards the merger of Cockerill and Hainault-Sambre. The information given was completed by the Belgian Government's reply in mid-August 1981 to a detailed questionnaire drawn up by the Commission, and by further information supplied at a multilateral meeting held in October 1981.

The aids proposed (apart from those in respect of which the Article 93(2) procedure had already been initiated) were: for investments, Bfrs 9 billion of convertible participatory bonds, and a State guarantee for Bfrs 4.6 billion of loans, the two together representing one half of the investment finance; for social costs a State guarantee on loans covering the whole cost (c. Bfrs 500 million per year for 5 years), with the State also bearing the interest costs for

[1] COM(81)71 Final point 2.2.3.

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5 years and granting an interest relief of 5 points in the sixth year; measures to restore the financial position of the group amounting to Bfrs 58 billion and consisting of conversion of Bfrs 25 billion of long-term debt into capital (Bfrs 11 billion) and convertible participatory bonds (Bfrs 14 billion), coverage of losses 1981-1984 by subscriptions of capital and convertible participatory bonds up to a maximum of Bfrs 22 billion; an interest-relief grant and a State guarantee for loans of Bfrs 7 billion intended to augment the group's working capital, and payment by the State of interest up to 1985 on long-term loans (Bfrs 2 billion per year for 2 years)[1] in return for convertible participatory bonds. The associated restructuring programme would result in capacity reductions of 3.2 m tonnes of crude steel and about 1 m tonnes of hot-rolled products, and the workforce would fall by 5 000 between 1981 and 1985, through natural wastage and early retirement.

The Commission decided in November to initiate the procedure of Article 8(3) of Decision No 2320/81/ECSC in respect of these proposals. The Belgian Government's estimates indicated that, even on optimistic assumptions, the group would be unable, by 1985 to cover its financial costs and depreciation, even with the benefit of the 2-year prolongation of the State's assumption of long-term debt interest. The Commission also noted that given the high costs which the steel industry in Belgium has to bear (e.g., for labour and energy) and its heavy dependence on exporting its products, a high rate of utilization of equipment, leading to high productivity, would be necessary to ensure the viability of the undertaking. It considered that a greater concentration of production than that proposed in the plan would be necessary to achieve this end. In the Commission's view therefore the plan could not be reconciled with the viability criterion of Article 2 of Decision No 2320.

In addition, the Commission considered that the intensity of the investment aids (40% net grant equivalent, if the 'strategic' and 'minor' investment aids are included) and the volume of the aids to continued operation was not justified by the scale of the restructuring effort. Some of the investments proposed had moreover not been notified under Decision No 22/66 and the compatibility of some with the General Objectives on steel was doubtful. Finally, some of the aids to continued operation would lead to payments outside the period established by Article 5 of Decision No 2320.

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[1]The State had previously agreed to bear interest on these loans up to 1983.

In opening the procedure in respect of the Cockerill-Sambre restructuring, the Commission also invited the Belgian Government to inform it of any restructuring that was proposed in other Belgian steel undertakings in justification of the aids in their favour which were subject to procedures initiated in December 1980 and April 1981.

At the beginning of August, the Commission had agreed to the provision of a State guarantee on short-term loans of Bfrs 5.2 m at market rate to meet the financial needs of Cockerill-Sambre up to October 1981; without this finance the enterprise would have been confronted with immediate and very serious liquidity problems. This aid, which is to be counted as part of the total aid package for the restructuring of Cockerill-Sambre referred to above, was first proposed by the Belgian Government in the form of a subscription of capital. Given its difficulties over the restructuring proposals as a whole, the Commission could only consider this intervention as an emergency aid. However, it was not prepared to approve an emergency aid in the form of a subscription of capital and the Belgian Government accordingly adopted the loan-guarantee approach.

The Commission indicated that approval of this emergency aid did not prejudge its overall assessment of the Cockerill-Sambre proposals or of other aids notified for the Belgian steel industry. The Belgian Government undertook to give no further aid to Cockerill-Sambre before October, to ensure fulfilment by the undertaking of its obligations on quotas and prices and to arrange communication of its liquidity position on a monthly basis.

When it opened the procedure in November, the Commission indicated to the Belgian Government that, in order to enable the necessary restructuring to get under way, it would be prepared to consider approval of a first tranche of aid on the basis of the implementation of a proportion of the capacity reduction provided for in the restructuring programme. The Belgian Government in due course made a proposal in this sense, consisting of the definitive closure of two blast furnaces, a sintering plant and two mills with a total capacity of 700,000 tonnes of long products. This enabled the Commission to authorise part of the proposed financial restructuring, namely the conversion of Bfrs 5.2 billion of debts into capital as well as a loan of Bfrs 4.1 billion at market rate to meet the financial requirements of Cockerill-Sambre in the early part of 1982. At the same time the Commission decided to release ECSC loans for three previously approved investment projects within the group. The Belgian Government agreed to continue discussions with the Commission with the aim of establishing a restructuring programme which would ensure the viability and competitivity of the group. The conditions regarding monthly reports, production quotas and prices remained in place.

3.2.2. Federal Republic of Germany: In July the Commission initiated the procedure of Article 93(2) EEC in conjunction with Article 6(2) of Decision No 257/80/ECSC in respect of a proposal to provide aid to a steel undertaking in Bavaria. The proposal concerned a programme of investment costing DM 213 m over a 3-year period (already notified under Decision No 22/66) and a Research and Development (R&D) programme costing DM 66 m. For the investment programme, grants totalling DM 34.5 m were envisaged (at rates of 15 % or 20 % for rationalization or expansion investments, respectively), while the R&D programme was to receive grants of DM 38 m. The net grant equivalent of all the aids together was estimated at about 14 %. These proposals were expected to result in an employment reduction of about 10 %.

The Commission took the view that the proposed capacity reduction (about 0.1 m tonnes, taking account of capacity left in reserve) could not be considered, in the overall Community context, to justify the volume of investment aid and that the restructuring was not sufficiently great to ensure the future survival of the enterprise or to contribute as intended to the solution of the regional problems in the area. As regards the R&D aids, the Commission noted that some DM 20 m of the R&D expenditure was intended for capital expenditure, which might have a direct bearing on production. This gave rise to doubts about the nature of this expenditure. In addition, the intensity of these aids seemed to the Commission to be excessive.

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Further information provided by the German Government during the course of the procedure made it clear that capacity reductions in excess of those originally indicated would result from the restructuring programme - 35 % in crude steel and more than 28 % in rolled products. The Commission considered that restructuring on this scale would make a major contribution to the solution of the undertaking's structural problems and concluded that it need raise no objection to the proposed investment aids of DM 34.5 m. As regards the R&D programme, the Commission took the view that aids towards the capital expenditure of DM 20 m would have to be treated according to the rules for investment aids and must consequently be limited to levels acceptable for such aids. Aids for other aspects of the R&D programme would have to observe the 50 % ceiling established by Article 7 of Decision No 2320/81/ECSC. As a result, the Commission considered that it would be able to authorise DM 29 m of the proposed DM 38 m of R&D aids. In December it invited the German Government to modify its proposals accordingly.

The first report on the application of the steel aid rules (Annex, A2) gave details of a programme initiated in 1978 for the restructuring of the Saarland steel industry. In August 1981 the German Government notified further aids for the continuation and modification of this programme. The modification involved the closure of the liquid phase at one site a year earlier than foreseen, the continued mothballing of a steelworks originally intended to be brought back into use in 1981, a more rapid build-up to full production in a new steelworks and the cessation of production of seamless tubes at one site. New investments including a continuous caster and a reheating furnace were proposed, at a total cost of DM 190 m. These changes would lead to a further employment reduction of some 1 250, and social costs would be increased by DM 200 m. The aids envisaged were conditionally repayable grants of DM 170 m, to be provided in 1982 and 1983, and guarantees on loans of DM 210 m, both aids to be jointly financed by the Federal and Land Governments. The Commission decided to initiate the procedure of Article 8(3) of Decision No 2320/81/ECSC in respect of these proposals. It considered that the changes in the market situation since the initiation of the original restructuring plan merited a more fundamental review of the position of the Saarland Industry, in particular with regard to rolling capacity, which it is intended to maintain at the level of the 1978 plan.

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The Commission was therefore unable to conclude that the modified programme was sufficient to ensure the future viability and competitivity of the undertaking, or that the restructuring effort justified the proposed level of aid in the terms of Article 3 of Decision No 2320/81/ECSC. In addition, it was not clear to what extent an amount of DM 100 m of aided investment expenditure foreseen for the years 1983 and 1984 related to additional projects which had not yet been notified to the Commission. There were also some uncertainties about the precise nature of the costs to be covered by the social aids, so that the Commission was unable to determine the compatibility of these with Article 4 of the Decision.

In the context of the procedure, the German Government provided further information on the situation of the undertaking. In the light of this the Commission concluded that aid was required urgently and accordingly it authorised the payment of DM 170 m. At the same time it approved the grant of DM 2 million of reduced interest loans for environmental investment programmes. This authorization was given on the condition that the utilisation of 1 million tonnes of crude steel capacity which had been put in reserve would be subject to prior approval by the Commission. The procedure remained in force as regards the remainder of the aid proposed. The Commission underlined its doubts about the ability of the restructuring programme to achieve the desired results and indicated to the German Government that it wished to discuss possible modifications to the programme in the context of its consideration of the remaining aid proposals.

The German Government proposed a sectoral aid scheme for investments in the steel industry. A grant of 10 % of the investment cost would be available to steel undertakings making investments which were linked to programmes of restructuring, modernization or rationalization. The investments must be made in the years 1982-85 and no payments would be effected after the end of 1985. The total aid budget for the scheme is estimated at some DM 600 million.

It would be possible for enterprises to combine aid under this scheme with other aids, up to a maximum of 20 % of the total investment cost. The Commission asked for certain further details about this scheme; examination of the German Government's reply was continuing at 31 December 1981.

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3.2.3. France: In October the Commission initiated the procedure of Article 8(3) of Decision No 2320/81/ECSC in respect of an aid scheme for the restructuring of Compagnie Française des Aciers Spéciaux (CFAS) the parent companies of which are Usinor and Creusot-Loire. The aim of the restructuring is to rationalize CFAS's production of special steels and long products, and mainly involves the modernization of the works at Les Dunes. The cost of the programme is estimated at FF 800 m (including FF 200 m for non-ECSC activities), to which the French Government proposes to contribute FF 450 in the form of subordinated loans of 20 years' duration.

The Commission had several areas of concern about this scheme. The larger part of the ECSC investment programme (c. FF 400 m) had not been declared to the Commission as required under Decision No 22/66. The information available to the Commission indicated that the investments proposed would have the effect of increasing capacity for crude steel and finished products, while no precise details on any compensating closures were given as the scale and scope of these were still under study. It was, moreover, not clear whether any action would be taken to improve the quality of the rolling facilities of the company, which called in question whether the programme was of a nature to assure the future viability and competitivity of the company in the absence of further aids. Finally, the exact terms of the subordinated loans were not communicated and the Commission was therefore unable to assess the intensity of the aid involved. Accordingly, it concluded that it could not establish the compatibility of the proposals with the criteria of the steel aids Decision.

In August and September the French Government notified two tranches of emergency aid to Sacilor and Usinor. These aids took the form of loans by the Fonds de Développement Economique et Social amounting to some FF 4 900 million. Simultaneously with the notification of the second tranche, the French Government informed the Commission of its intention to convert FDES loans of some FF 13 800 million to Sacilor and Usinor (including the emergency aids of FF 4 900 million) into share capital, in the context of its plans for the nationalization of the steel industry. As regards the emergency aids and their conversion into capital, the Commission was unable to assess the compatibility of these proposals with the criteria of Decision No 2320/81/ECSC. Details of the terms of the loans were not available, and no indication was given of any restructuring which it was proposed to put into effect in connection with these aids. It was therefore necessary to initiate the procedure of Article 8(3) of Decision No 2320/81/ECSC in respect of them. At the same time the Commission asked the French Government to provide it with details of the remaining FF 8 900 million of FDES loans (granted in previous years) which were also to be converted into capital. From the information available to it, the Commission was unable to determine what effect the conversion of these loans would have on the financial charges borne by the companies and, consequently, to what extent it should be considered as an aid.

Sacilor and Usinor were the subject of a further request by the French Government for authorization of emergency aids in the form of loans amounting to FF 4 430 million. The Commission decided in December to authorise a maximum of that amount under Article 6 of Decision No 2320/81/ECSC, taking the view that the aids were essential to the survival of the undertakings and were intended to avoid serious social problems, pending the development of an overall restructuring plan for the French steel industry. The Commission made it a condition of approval that the loans should bear a market rate of interest and should not be paid after 30 June 1982. In addition, the French Government was required to supply monthly reports on the amount and conditions of loans advanced, together with details of the undertaking's financial situation and to begin discussions with the Commission on its proposals for the restructuring of the steel industry not later than the end of March 1982.

3.2.4. Italy: In October, the Italian Government notified the Commission of the adoption of Decree-Law No 495 of 4 September 1981, which made provision for aids to both the private and the public sector steel industry in Italy.

For the private sector, the aid was a measure to lessen the impact of rising energy costs on electric steelworks. The Decree-law empowers the State to meet all increases in the electricity price surcharge above the level which obtained at 31 March 1981. This measure would cover the period from the introduction of the Decree-law to 30 June 1983 and would apply to electricity used by such steelworks in off-peak periods. An initial budgetary provision of LIT 50 billion had been established for 1981.

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As regards the public sector, the Decree-law authorized IRI to issue 7-year bonds on the normal financial market to an amount of LIT 2 000 billion. The bonds, which would be guaranteed by the State, would have a 3-year grace period and the State would meet the interest up to 11 percentage points for the life of the bonds. The product of the bonds issue would be made available to IRI's steel enterprises to reduce their short-term debts. The issue of these bonds was conditional on the approval, by the Minister of State Participations and the Interministerial Committee on Planning and Industry, of a restructuring plan for the public sector steel industry.

In considering these aids under Articles 2 and 5 of Decision No 2320/81/ECSC, the Commission noted that the private sector enterprises were not required to undertake any restructuring in return for the aid. The State-owned enterprises on the other hand were to draw up a restructuring plan, but this had not been made available to the Commission, so that assessment was impossible. In addition, the volume of the two aids taken together (estimated at about LIT 1 000 billion in grant equivalent) appeared likely, considering their character as aids to continued operation, to have serious effects on competition. Both aids also raised problems with regard to Article 5, the IRI bonds because they would lead to payments after the two-year limit established by that Article and would not be proportionately reduced at least once a year, the electricity aid because there was no provision for annual reduction and, in principle, the volume of aid seemed more likely to increase than to decrease, given the underlying trend in energy prices.

For these reasons the Commission was led to initiate the procedure of Article 8(3) of Decision No 2320/81/ECSC in respect of these aids.

The Italian Government notified the Commission in November of a draft law to increase the capital of FINSIDER. Before the Commission had time to take a position on this draft law the Italian Government asked it to release a first tranche of the proposed capital of LIT 350 billion in order to meet urgent financial needs of the undertaking. The provision of this finance would be accompanied by a reduction of 130,000 tonnes of capacity for hot-rolled products. The Commission considered that in view of the financial situation of the undertaking, provision of this capital inevitably contained aid elements, and would have to be taken into account in its overall assessment of aids proposed in connection with the restructuring plan for the Italian steel industry. It agreed to authorise this tranche of capital on this basis.

3.2.5. Luxembourg: In April the Commission opened the procedures of Article 93(2) EEC and Article 6(2) of Decision No 257/80/ECSC in respect of the Luxembourg Government's proposals to provide aids for restructuring of the steel industry. The proposed aids consist of grants of 15% under the Economic Expansion Law and special repayable grants of 10%, both for investments effected in the period 1980-1984 and estimated to cost some F.Lux 20 billion; a tax concession enabling losses of up to half of annual depreciation to be carried forward indefinitely; loans totalling F. Lux 1 028 million, at favourable interest rates, to be paid in 1980 and 1981; a grant of F. Lux 100 m for infrastructural works for the new cold-rolling mill at Dudelange; aids towards the costs of closure of Rodange and the costs of terminating certain contracts; and an increase of F.Lux 3.5 billion in the ceiling for State guarantees of ECSC loans.

These aids were regarded by the Commission as falling under Articles 2 (investment), 3 (closure) and 4 (continued operation) of Decision No 257/80/ECSC. As regards the Article 2 and Article 4 aids, it considered that the capacity reductions and restructuring proposed were insufficient to justify the intensity and amount of the aids. Further, details of some of the investments had not been declared to the Commission, which was therefore not in a position to judge whether these investments could be expected to improve the competitiveness of certain plants. There seemed to be no provision for the operating aid to be progressively reduced and the Commission could not establish whether it was limited to what was necessary to enable activity to be continued during restructuring. Similarly, for the closure aids, the information given by the Luxembourg Government was insufficient to enable the Commission to establish compatibility with Article 3. The reply of the Luxembourg Government to the Commission's letter giving notice to submit comments in the context of the procedure left some difficulties and uncertainties still unresolved. The Commission therefore addressed a detailed questionnaire to the Luxembourg Government. The reply to this was still under examination by the Commission at the end of the year. At the same time, the Commission started discussions with the Luxembourg Government.

4. Action on infringements of procedural requirements

4.1. The Commission has initiated infringement procedures under Article 88 ECSC against France and Italy and under Article 169 EEC against Belgium.

4.2. The Article 88 procedure against France concerns subordinated loan capital for CFAS and the emergency aids for Sacilor and Usinor mentioned above. (page 1 In both cases, the aids had already been granted before the notification was made, in contravention of the requirements of Article 8(1) of Decision No 2320/81/ECSC.

4.3. In the case of Italy, the aids in question are those provided for in Decree-law No 495 (see above), a Lit 750 billion financing of Italsider (the funds being provided by banks, but covered by a deposit of treasury certificates by IRI) and a Lit 431 billion increase in the capital of Italsider. The Decree-law was notified after the date of its entry into force. The electricity aid became available immediately and the bonds issue, though not authorized at the time of notification, was to follow the approval of a restructuring plan – an approval which itself was to be given not later than 40 days after the adoption of the Decree-law. The two interventions in favour of Italsider have not been notified to the Commission.

4.4. The Belgian case in respect of which the Article 169 EEC procedure has been initiated concerns the emergency aid of Bfrs 1.5 billion for the Triangle de Charleroi and the Bfrs 6.5 billion aid mentioned above, as well as a measure to convert loans of Bfrs 2 billion granted by the Société Nationale de Crédit à l'Industrie to Hainaut-Sambre. The aids of Bfrs 1.5 billion and Bfrs 6.5 billion were granted by the Belgian Government despite the Article 93(2) procedure initiated in respect of them, which has the effect of preventing the implementation of aid proposals before the Commission has taken a final decision. The conversion of Bfrs 2 billion of loans was notified after it had been accomplished.