COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION

ON THE APPLICATION OF THE RULES ON STATE AID TO THE STEEL INDUSTRY IN 1992

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1. Introduction

On 1 January 1992, the new Steel Aid Code (Commission Decision No 3855/91/ECSC of 27.11.93)1 entered into force for a five year period and shall apply until 31 December 1996. A brief analysis of the said decision can be found in the previous steel report (SEC (92) 2438 fin.).

Article 8 of the new aid code requires the Commission to draw up annual reports on the implementation of the decision for the Council and, for information, for the Parliament and the Consultative Committee.

The calendar year 1992 is reviewed in this report. It includes a brief description of all Commission decisions on aid to the ECSC steel industry.

2. Description of individual aid cases to the steel industry per Member State

2.1 Belgium

In November 1992, the Commission approved an aid project for environmental protection in order to reduce air pollution for the steel company **SA Forges de Clabecq** in Wallonia. The Commission established that the aid was compatible with Article 3 of the Steel Aid Code, bringing the steel undertakings plant into line with new statutory environmental standards, and accepted that the aid amounting to ECU 2.2 million did not exceed15% net grant equivalent of the investments cost directly related to the environmental measures.

2.2 Denmark and Netherlands

In July, with the Council's unanimous assent provided on the basis of Article 95 ECSC, the Commission authorized aid to Danish and Dutch steel undertakings in the form of **relief from new CO_2/energy taxes** introduced in the two countries.

In authorizing the aid, the Council and the Commission took into consideration the fact that, given the high energy consumption of the steel undertakings, the additional costs incurred by Danish and Dutch steel firms as a result of the tax would seriously affect their competitiveness.

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2.3 <u>Germany</u>

2.3.1 General regional aid schemes

In Germany the main concern was the adaptation of East German steel industry to market economy competition and its integration into the common market. According to Article 5 of the Code, investment aid to steel undertakings under general regional investment aid schemes in the former German Democratic Republic may be allowed until 31 December 1994, provided that the aid is accompanied by a reduction in the overall production capacity of that territory.

Article 6, in conjuction with the Commission's formal decision on the activities of the Treuhandanstalt(2), obliges the German authorities to notify to the Commission any aid project proposed under general regional aid schemes. The Commission shall equally be informed of any privatisation of steel undertakings, in order to be able to determine whether the aid elements are involved, and, if so, to examine whether the aid is compatible with the common market under the provision of Articles 2 to 5 of the Steel Aids Code.

In 1992 the Commission, based on Article 5 of the code, took decisions on various general regional investment aid schemes to the steel industry in the territory of the former GDR. More precisely,the Commission approved:

- the 20th as well as the 21st outline plan of the largest regional aid scheme, notably the **Joint Federal** Government/Länder programme for **improving regional economic structures** (Gemeinschaftsaufgabe), giving the possibility of granting an investment subsidy up to an intensity of 23% gross. This aid may be combined with other investment aids up to a maximum of 12%, so that the aggregate assistance for a single investment project may not exceed an intensity ceiling of 35% gross;

- the application of the **tax** allowance for **investment** (Investitionszulagengesetz) **for** 1991, with an intensity of 12% gross, on equipments only, and, later in the year, its successor, the **Investitionszulagengesetz** 1992. In particular, this latest approval provides the possibility of granting a tax allowance with an intensity of 8% for investments started before the end of June 1994 and due to be completed before the end of 1996, and a tax allowance with an intensity of 5% for those investments taking place within the period from 1 July 1994 to 31 December 1996;

- the introduction in the former GDR of a special **depreciation scheme** corresponding to that in force in the former FRG frontier regions (Zonenrandgebiet) until the end of 1994;

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(2) IP(91)836 of 18.9.1991 and letter SG(92) D/17613 of 8.12.1992

- the application of the **Programme of Federal Government guarantees for private firms** carrying out investment projects in the former GDR (Haushaltsgesetz 1990). The objective of this programme is to facilitate regional development by providing guarantees for bank loans to private firms of up to 80% of the loan investment applied for the project to be carried out.

The Commission has requested the German authorities to notify each individual aid project applied for under the above-mentionned schemes pursuant to Article 6 of the Steel Aid Code.

2.3.2 **Individual cases of investment aid**

In June 1992, the Commission took a decision on the first important investment project in the East German steel industry involving public aid under two regional aid schemes, approving investment aid to **Walzwerke Ilsenburg GmbH.** The investment aid consisted of a payment of ECU 14.4 million under the general regional scheme, representing an intensity of 23% and a payment of ECU 6.1 million under the tax allowance for investment with an intensity of 12% for the 1991 investment and of 8% for the part completed by the end of 1992. The Commission considered the proposed aid in the light of Article 5 of the Steel Aid Code, and verified that the investment was accompanied by a reduction in capacities for crude steel and hot-rolled finished products as compared to 1990.

In this decision, the Commission more closely specified the intrepretation of Article 5. It required the German authorities to assure an overall reduction of hot-rolled finished products of the order of at least 10% of the capacity installed on 1 July 1990 by the end of 1994. This condition applied since then in the examination of each individual case of aid to steel undertakings in the territory of ex-GDR.

The Commission also approved **investment aid projects** for five companies in the former GDR in order to increase their capacity for the disposal and processing of metal raw materials. The companies under question are **Entsorgung und Recycling Coswig GmbH, Greiger Metall-Rohstoff GmbH, Metall-Rohstoffe Thüringen GmbH, SMG Schrott und Metall GmbH, Thyssen Rohstoff-Recycling GmbH.** The Commision examined the compatibility of the proposed aid in all cases with Article 5 of the Steel Aid Code, and established that the aid was granted under the general aid schemes already approved and that the aid intensity did not exceed the ceiling set.

2.3.3 **Aid for R&D**

In November 1992, the Commission approved an R&D aid project in favour of "**Klöckner Technologie und Entwicklung GmbH**" **providing the grant of a** subsidy totalling up to ECU 1.7 million. The Commission considered that the aid project was compatible with the provisions of Article 2 of the Code and that the intensity was below the maximum ceiling allowed.

2.4 Spain

2.4.1 **Opening of the procedure Art. 6(4)**

In July, the Commission initiated the procedure under Article 6(4) of the steel aid code to investigate certain aid granted to the Spanish special steels producer **Acenor.**

Following complaints from competitors in a number of Member States, the Commission established that Acenor has received a revolving monthly loan from its parent company Sidenor and that the company was not repaying capital and interest on certain other loans. The Commission considered that these financial operations contained operating state aid not allowed under the steel aid code, since, in view of the company's financial difficulties, it was unlikely that a normal investor would make similar arrangements in a market economy.

2.4.2 **Restructuring of the Spanish steel industry**

In November, the Commission proposed to the Council to authorise , under article 95 of the ECSC Treaty, an aid totalling up to 505 MECU in support of a restructuring plan for **Sidenor,** incorporating Acenor and Foarsa. The restructuring involved a 31% reduction in hot-rolled capacity and a 39% reduction in the labour force.

At the same time the Commission sent a communication to the Council concerning the proposed restructuring plan for the public integrated steel company, **Corporacion de la Siderurgia Integral (CSI),** incorporating Ensidesa and Altos Hornos de Vizcaya. On the basis of a report from a consultant jointly designated by the Commission and the Spanish authorities, the Commission considered that the plan was viable and represented a courageous and constructive approach to the restructuring of the Spanish steel industry. However, in the light of the difficulties on the Community steel market, the Commission believed that the relation between the aid intensity (aid totalling up to 3 986 MECU) and the extent of the restructuring proposed needed to be improved. The Industry Council, at its meeting on 24 November 1992, was not prepared to agree to the Spanish proposals and further discussion was deferred until early 1993.

2.5 Italy

2.5.1 **Aid for R&D**

The Commission approved under Article 2 of the Steel Aids Code an Italian Government plan to assist a research and development programme, aimed at creating a prototype continuous process for the production of flat steel products, undertaken by the steel company **Acciaieria ISP** di **Cremona SpA.** The aid consisted of a grant of ECU 3.3 million and a low-interest loan of ECU 72.7 million.

2.5.2 **Opening of procedure Art. 6(4)**

In July, the Commission decided to initiate the procedure set out in the Steel Aids Code, in order to investigate possible aid to the public Italian steel company Ilva. Ilva's shareholder, the state-owned holding company IRI, had decided to increase Ilva's capital by ECU 421 million in two instalments. The first capital increase of ECU 227 million would take the form of the inclusion of Sofin SpA, an IRI company, into Ilva. The second increase would come directly from IRI.

The capital increases were part of a wider plan to improve the financial situation of the company. Under that plan, amongst other measures, Ilva would sell shares on the Stock Exchange in 1993 thereby raising its capital a further 647 MECU. However, the fact that Ilva had made losses on its 1991 operations, meant that this raising could not take place, since in Italy only companies which have made profits in three consecutive years prior to flotation can be quoted on the Stock Exchange. The Commission considered that IRI could have known, when it put forward its plan, that the company risked making losses in 1991 and that it would not be possible to sell Ilva's shares, as envisaged.

In these circumstances, it was doubtful that a normal investor would commit further capital to the company without developing a better alternative. Therefore the Commission considered that the capital increase could contain state aid and initiated the procedure provided under Article 6(4) of the Code.

2.6 Luxembourg

2.6.1 Aid to R&D

In March, the Commission approved the application of the general aid scheme for R & D in favor of the Luxembourg steel company **GALVALANGE SARL**, assisting the company with its 1988-92 R & D programme. The aid consisted of a grant of maximum 2.6 MECU and a low-interest loan of about 2.6 MECU. The Commission established that the aid project was compatible with the provisions of Article 2 of the Steel Aid Code and that the intensity was not exceeding the maximum ceiling allowed.

3. Consensus EC-US

The agreement concluded between the European Community and the United States (Commission Decision N° 89/636/ECSC of December 1989) was in force until 31 March 1992. Since, a new agreement is under negotiation.