

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 311 final.

Brussels, 30 June 1977.

DRAFT COMMISSION DECISION (ECSC)

amending Decision 3544/73/ECSC implementing Decision
73/287/ECSC concerning coking coal and coke

COM(77) 311 final.

Justification of a decision amending decision No. 3544/73/ECSC
implementing decision No. 73/287/ECSC on coking coal and coke
for the iron and steel industry of the Community (1)

1. Under decision No. 73/287/ECSC, aids for coking coal and blast-furnace coke may be paid only where deliveries are made under long-term contract (article 2, 1 (c) ; equally, coal undertakings are authorized to grant rebates on their list-prices only in respect of such deliveries (article 3, 1).
2. Article 3 of decision No. 3544/73/ECSC, implementing the above decision (2) defines the requirements that a mutual agreement needs to meet in order to be regarded as a long-term contract and hence qualify for the aids and the alignment rebates mentioned above.

In particular, an agreement relating to a fixed tonnage may allow performance variations above or below the stated tonnage, as provided for in the decision (article 3, 2 a). These upper and lower limits (flexibility) have enabled the system to absorb the impact of economic changes between 1974 and 1976.

3. For the year 1977, the Commission has introduced a scheme to bring the supply of iron and steel products more into line with demand, this scheme relies inter alia upon commitments by Community steel undertakings to adhere to the delivery limits set by the Commission (3).

For a given undertaking, the fact of meeting such a commitment is likely to bring about reduced production of steel and pig iron and consequently lower consumption of coking coal and blast-furnace coke. This reduction could largely exceed the maximum permitted flexibility for long-term contracts (10 %) (see paragraph 2 above).

It follows that such an undertaking could find itself at a disadvantage in comparison with its competitors, either as a result of having respected the flexibility mentioned above - hence incurring significant stockholding costs - or, as a result of not having met commitments under its supply contract thereby losing the benefit of aids and alignment.

(1) OJ No. L 259 of 15.9.73

(2) OJ No L 361 of 29.12.73

(3) see decision 962/77/ECSC of 4 May, 1977 fixing minimum prices for certain concrete reinforcement bars. OJ No. L 114 of 5.5.77, second consideration.

4. Given that this situation applies to a good number of undertakings, it is the Commission's view that for 1977, greater flexibility is required in the performance criteria applicable to long-term contracts - without however changing the definitions of the implementing decision and, naturally without bringing into question the individual obligations arising under private law from long-term agreements concluded between suppliers and purchasers of Community coal.

The right to benefit from aids and alignment rebates will be not be impaired for any contract where the 1977 performance does not fall short of the base tonnage by a percentage greater than that by which the buyer's pig iron output varies against the reference period set for the delivery limits for iron and steel products.

5. Such a measure poses problems for the coal undertakings; they need to maintain sufficient production capacity to cover all their contracts and it is therefore necessary to avoid pronounced variations in performance between these contracts. For this purpose every purchaser who has negotiated supply contracts with several Community undertakings, must ensure for each individual contract at least the minimum level of performance defined above, failing which his overall liftings will cease to qualify for aids and alignment rebates.

6. Accordingly, the Commission proposes to take a decision (ECSC); the draft instrument is attached.

The draft is submitted to the Council and to the Consultative Committee in accordance with article 12 of decision No. 73/287/ECSC.

Draft Commission Decision amending Decision 3544/73/ECSC
implementing Decision 73/287/ECSC concerning coking coal
and coke

Article 1

There is hereby added to Article 3 (2) of Decision 3544/73/ECSC the following :
"c) For the year 1977 and in respect of the supplies to a steel undertaking which
has undertaken to adhere to the delivery limits for iron and steel products set
by the Commission, the performance of an agreement relating to a fixed tonnage
may very below this tonnage by a percentage not exceeding the reduction in the
pig ^{iron} production of the undertaking during 1977 as compared with the reference
period established in respect of the delivery limits set for its iron and steel
products.

If the supplies to an iron and steel undertaking are covered by two or more
long-term fixed-tonnage contracts, each and every one shall be performed at
least to the extents set out above".

Article 2

This Decision shall take effect retrospectively from 1 January 1977 and shall
cease to have effect on 31 December 1977.

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

Done at Brussels,

