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COMMISSION DECISION

of 3 July 1972

pursuant to Article 88 of the ECSC Treaty, establishing that the Kingdom of Belgium has failed to fulfil its obligations by not furnishing to the Commission certain information concerning the application to particular cases of measures of aid in the iron and steel industry

(Only the Dutch and French texts are authentic)

(72/283/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular the first paragraph of Article 88, and Articles 4, 47, 67 and 86 thereof;

Whereas by the Laws of 17 and 18 July 1959 and of 14 July 1966, the Kingdom of Belgium has introduced certain measures of aid which include State guarantees, subsidies in the form of interest rebates and capital bonuses and also tax concessions in the form of exemption from the advance levy on immovable property and from accelerated amortization;

Whereas iron and steel undertakings are in certain circumstances eligible for one or more of the measures of aid introduced by those laws;

Whereas Article 4 (c) of the ECSC Treaty prohibits aids to the iron and steel industry, such prohibition extending also to general measures of aid which favour the steel sector in particular;

Whereas State aids amount to actions by a Member State which are liable to have appreciable repercussions on conditions of competition in the steel industry; whereas Article 67 (1) of the ECSC Treaty provides that such actions must be brought to the knowledge of the High Authority by the State concerned;

Whereas the Commission is responsible for ascertaining whether aids granted by Member States for the iron and steel industry fall under the provisions of Article 4 (c) and, if not, how such aids must be looked upon having regard to the provisions of Article 67 ((2) and (3) of the ECSC Treaty;

Whereas Articles 47, 67 and 86 of the Treaty place the Member States under the obligation to supply all relevant information which the Commission needs to carry out its task in a particular sector;

Whereas if information concerning the aids in question is provided in the form of an annual total, it is not possible to ascertain, for each grant of aid to the iron and steel industry, whether the conditions applied are identical to those applied in respect of other industries to which the same measures of aid are extended;

Whereas the Commission, by letter of 12 March 1970, No 70-22229, requested the Kingdom of Belgium to inform it of the measures already taken to aid the steel industry and of the aid proposed for the iron and steel industry under general aid measures;

Whereas on 13 May 1971 the Commision addressed a further letter, No 71-23837, to the Kingdom of Belgium, since the latter had not replied to letter No 70-22229 of 12 March 1970;

Whereas the letter of 13 May 1971 invited the Kingdom of Belgium to supply detailed information within two months on aids granted for individual iron and steel investments during 1970: amount of credit and/or subsidy, duration, rate of interest, deferred amortization and tax concessions;

Whereas the Kingdom of Belgium was also invited within two months to complete the list of aids granted to the iron and steel industry by answering a number of questions;

Whereas that letter clearly reaffirmed that where general or regional measures of aid in favour of investment projects for the iron and steel industry are applied, the Commission has to be informed thereof; whereas the Member States cannot escape that obligation on the grounds that general systems of aid

cannot be subject to a specific examination under the provisions of the Treaty of Paris;

Whereas the Belgian State forwarded, by letter of 14 July 1971, information to complete the list of aid to the iron and steel industry; whereas that Member State has however not forwarded the information on investment asked for in the Commission's letter of 13 May 1971;

Whereas the Commission had allowed two months for the provision of this information, which should be sufficient time for the purpose;

Whereas the provision of incomplete information and failure to communicate certain information requested by the Commission in the letters of 12 March 1970 and 13 May 1971 constitute, in the opinion of the Commission, a failure to fulfil the obligations which devolve upon the Belgian State under Articles 47, 67 and 86 of the ECSC Treaty;

Whereas by letter No 72-20061 of 6 January 1972 the Commission invited the Kingdom of Belgium in accordance with the first paragraph of Article 88 to furnish within two months from the date of that letter its comments with regard to the failure in question;

Whereas in its reply of 22 February 1972 the Kingdom of Belgium declared that it had furnished the information requested by the Commission including the information on investment aids asked for in the Commission's letter of 13 May 1971; whereas such information has however not been supplied;

Whereas Article 88 provides that the Commission shall set the State concerned a time limit for the fulfilment of its obligation,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of Belgium by not providing certain information requested by the Commission in its letters No 71-23837 of 13 May 1971 and No 72-20061 of 6 January 1972 has failed to fulfil an obligation devolving upon it under Articles 47, 67 and 86 of the ECSC Treaty.

Article 2

The Kingdom of Belgium is hereby given a time limit of two months to fulfil the obligation in question.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 3 July 1972.

For the Commission

The President

S. L. MANSHOLT