COMMISSION DECISION

of 29 June 1983

concerning the aids that the French Government proposes to grant to Sacilor and Usinor

(Only the French text is authentic)

(83/393/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry (1), and in particular Article 8 (3) thereof,

Having given notice, in accordance with Article 8 (3) of the abovementioned Decision, to the parties concerned to submit their comments (2), and having regard to those comments,

Whereas:

I

By telex No 74 sent by its Permanent Representation on 19 February 1982, the French Government notified the Commission of a plan to grant aid to the Usinor and Sacilor groups. By letter dated 30 September 1982 the French Government informed the Commission of a further set of aid measures to the two groups. After an initial scrutiny of the proposed aid for compatibility with the criteria laid down in Articles 2, 3 and 5 of Decision No 2320/81/ECSC, on the basis of the information supplied to it by the French Government, the Commission concluded that the capacity reduction proposed was insufficient to justify all the notified aid measures and that the two firms were not certain to return to viability. However, approval of part of the aid was justified on the ground of the restructuring effort that had been made in the flat products and special steels sectors and the urgent need for the firms to undertake investment to modernize their plant in these sectors.

Consequently, the Commission authorized the aid for financing the planned investment in the flat products and special steels sectors and aid for continued operation to cover losses up to the end of the 1982 financial year.

However, it opened the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC in respect of the aid proposed for financing investment in the long products sector and for continued operation in 1983. On 8 April and 26 November 1982, the Commission therefore sent two letters constituting formal notice to the French Government to submit its comments.

II

The French Government did not reply to the formal notice referred to above.

In their replies, two other Member States were in agreement with the conclusions of the Commission.

By letter dated 28 June 1983, the French Government notified revised figures for the aid for continued operation notified on 30 September 1982 and requested the extension of this aid until 31 December 1984. It also offered new capacity reductions for hot-rolled products.

III

The total amount of aid still subject to the procedure is as follows:

— investment aid:
  — FF 6 160 million,
  — guarantees on loans requested from ECSC,

— aid for continued operation:
  FF 18 664 million,

— aid for closures:
  FF 1 000 million.

In justification of all the aid notified, the French Government has proposed a net reduction of capacity for hot-rolled products of 5,357 million tonnes, part of which was already accepted to justify aid authorized in 1982.

(1) OJ No L 228, 13. 8. 1981, p. 14.
(2) OJ No C 189, 23. 7. 1982, p. 3 and OJ No C 63, 8. 3. 1983, p. 2.

IV

The above aid is to be granted partly in the form of endowments of capital or, if appropriate, shareholders' advances and the rest through a special semi-budgetary mechanism whereby new funds will be raised from the investing public and channelled in the form of cheap loans to the companies, with the Government stepping in to meet the commitments entered into with the financial markets (interest charges and repayments of principal) from budget allocations. Article 2 (1) of Decision No 2320/81/ECSC provides that the concept of aid includes 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 a market economy. In view of the financial situation of Usinor and Sacilor and the approach likely to be adopted by a private entrepreneur in similar circumstances, any injection of funds into the two groups to recapitalize them inevitably contains aid elements.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. In the present case, the restructuring programme for Usinor and Sacilor does not point to a return to viability except on optimistic assumptions as to the trend of sales between 1980 and 1986. Such assumptions are not supported by the forecasts in the General Objectives for Steel. It is hence doubtful whether the two groups, and especially Sacilor, will return to viability. More therefore needs to be done, particularly in the long products sector, to take out plant which because of its age and ill-adaptedness to market requirements is a burden on the companies' operating performance. Such an effort is all the more necessary since by virtue of the second indent of Article 3 (1) and the third indent of Article 5 (1) of Decision No 2320/81/ECSC, the amount and intensity of investment aid and aid for continued operation must be justified by the extent of the restructuring effort associated with them.

In line with the General Objectives for Steel, an overall reduction Community-wide of 30 to 35 million tonnes of capacity for hot-rolled products is necessary to restore a level of capacity utilization that is considered the minimum required to secure the viability of the Community steel industry under normal market conditions. It is necessary to ensure that this overall capacity reduction is distributed fairly. On this basis, after taking into consideration the restructuring effort to date and the aid granted prior to 1980, an extra restructuring effort must be accepted by the French steel industry. Accordingly, the French steel industry must reduce its capacity for hot-rolled products by 630 000 tonnes over and above the reductions already proposed. It is necessary to set a deadline by which the additional closures required must be identified.

V

The Commission must supervise the grant of aids authorized and compliance with the conditions imposed by it.

The capacity reductions must be obtained by the complete closure of plant producing hot-rolled products and the Commission must be able to verify that such closure is definitive. The net capacity reductions take into account any capacity increases that may result from approved investment programmes. To achieve the objective of bringing capacity into line with demand, the creation of new capacity must be compensated by additional closures.

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that aided undertakings must be engaged in the implementation of a restructuring programme which is capable of restoring their competitiveness and of making them financially viable without aid under normal market conditions. The Commission must therefore be assured that the aids contribute to restoring viability.

The Commission can only authorize aid for undertakings which have fulfilled all their obligations resulting from the application of the ECSC Treaty.

The authorization of the aids under consideration cannot prejudice any decisions that the Commission may have to take under Articles 65 and 66 of the ECSC Treaty.

There exists a system of quotas under Article 58 of the ECSC Treaty [1] and its extension is considered necessary.

VI

In view of all the above, the Commission can authorize the aids proposed subject to observance of the conditions and requirements laid down by it,

[1] OJ No L 191, 1. 7. 1982, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

The following aids which the French Government plans to grant to Sacilor and Usinor are compatible with the orderly functioning of the common market to the extent that the conditions and requirements set out in Articles 2 to 5 are satisfied:

— investment aid:

  — FF 6 160 million,

  — guarantees on loans requested from ECSC,

— aid for continued operation:

  FF 18 664 million,

— aid for closures:

  FF 1 000 million.

Article 2

1. The undertakings to which it is planned to grant the aids referred to in Article 1 shall carry out further net reductions in their production capacity for hot-rolled products of at least 630 000 tonnes, in addition to the reductions already proposed, part of which has already been accepted as justification for aid authorized by the Commission and to the reduction of 620 000 tonnes latterly offered by the French Government. The requisite capacity reductions may also be contributed by other undertakings.

2. A list of the plants to be closed, giving the closure dates and a report of increases in capacity resulting from investment shall be sent to the Commission by 31 January 1984 so that it can satisfy itself that the net reductions specified in the first paragraph will be achieved; the closures shall be implemented by 31 December 1985.

Article 3

None of the proposed aid shall be paid unless the Commission is satisfied that the undertaking concerned can return to financial viability by the end of 1985.

Article 4

1. The aids may be paid only if the Commission is satisfied, on the basis of an application submitted by the French Government specifying the amount, form and purpose of the aid and the undertaking concerned, that the conditions set out in Articles 2 and 3, or a sufficient part thereof, are met and that the undertaking in question fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas.

2. However, aid that is absolutely necessary for the continued operation of an undertaking until 31 January 1984 may be paid, provided that the undertaking fulfils its obligations in respect of ECSC Treaty rules, in particular those governing production quotas, if the Commission is satisfied, on the basis of an application by the French Government specifying the amount, form and purpose of the aid, that the conditions set out in Article 2, or a sufficient part thereof, are fulfilled.

Article 5

1. The aid for investment may be granted only if the Commission, on the basis of the notification of the investment programmes, where this is required under Commission Decision No 3302/81/ECSC [1], has delivered a favourable opinion on the programmes pursuant to Article 54 of the ECSC Treaty.

2. Such aid shall be disbursed as and when the undertaking incurs expenditure in connection with the investment.

Article 6

1. For the purposes of monitoring aid payments for compliance with the conditions and requirements laid down in this Decision, the Commission may require that the six-monthly reports supplied to it under Article 9 of Decision No 2320/81/ECSC contain details of the progress the aided undertakings have made towards financial viability.

2. To enable it to check that investment aid is disbursed in accordance with the provisions of Article 5 (2), the Commission shall be informed at the beginning of each quarter of:

— the expenditure to be incurred by the undertakings during the quarter concerned both in respect of work already done and as payments on account in respect of future work,

— the investment aid to be disbursed during the same period.

3. The Commission may also carry out on-the-spot inspections to verify that the reductions in capacity referred to in Article 2 (1) have been implemented.

[1] OJ No L 333, 20. 11. 1981, p. 35.

Article 7

1. Without prejudice to any penalties it may impose by virtue of the ECSC Treaty, the Commission may order the suspension of aid payments if at any time it should find that:

— aid has been paid in disregard of the conditions attached to its authorization in this Decision,

— the six-monthly reports supplied to it give reason to doubt that the undertaking concerned will return to financial viability by the end of 1985; in such a case the Commission may impose additional conditions relating to the restructuring of the undertaking,

— that the aided undertaking has breached its obligations under the provisions of the ECSC Treaty, in particular those governing the system of production quotas established under Article 58 and the rules on pricing.

2. The aid payments may not be resumed until the Commission has decided whether and to what extent the infringements committed call for a reduction in the amount of the aid still outstanding.

Article 8

This Decision is addressed to the French Republic.

Done at Brussels, 29 June 1983.

For the Commission

Frans ANDRIESSEN

Member of the Commission