COMMISSION DECISION
of 29 June 1983
concerning the aids that the Irish Government proposes to grant to Irish Steel Ltd

(Only the English text is authentic)

(83/395/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 letter dated 29 September 1982, the Irish Government notified the Commission of its intention to grant aids to the steel firm Irish Steel Ltd (ISL). After an initial scrutiny of these aids, in the light of the provisions of Articles 2 to 5 of Decision No 2320/81/ECSC, and on the basis of information obtained, the Commission concluded that the viability of ISL remained in doubt, that there was no capacity reduction to justify the aids and that no information has been provided regarding the amounts and dates of the aid payments. For these reasons the Commission initiated with respect to the aids proposed the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC. Accordingly, the Commission on 29 November 1982 sent a letter constituting formal notice to the Irish Government to submit its comments.

II

In its reply, dated 19 April 1983, the Irish Government informed the Commission that ISL was on target regarding its sales level for the year to June 1983, that the reduction in the electricity charges which is essential for ISL's viability would not result in a charge on public funds and would not discriminate against comparable consumers; that the Irish Government was giving ISL a trial period to 31 December 1983 to prove its viability and that no capacity reduction is necessary to justify the aids proposed since Article 2 (3) of Decision No 2320/81/ECSC applied in this case.

In their replies, two other Member States and one federation of companies of the sector, were in general agreement with the conclusions of the Commission.

On 27 April 1983 the Irish Government requested authorization for the issue of guarantees amounting to £ Irl 7 million in favour of ISL, in order to allow the undertaking to continue operating until 30 June 1983. The Commission, by letter dated 6 May 1983, authorized this interim measure, without prejudice to its final decision.

III

The aids for continued operation that are still subject to the procedure of Article 8 (3) of Decision No 2320/81/ECSC are:

— £ Irl 89 million of new capital, and

— £ Irl 18 million of guarantees to prefinance this capital as necessary.

The Irish Government has stated that it can offer no capacity reduction to justify these aids.

IV

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that the aided undertaking must be engaged in the implementation of a systematic and specific restructuring programme covering the different aspects of restructuring, which is capable of restoring its competitiveness and making it financially viable without any aid under normal market conditions.

[1] OJ No L 228, 13. 8. 1981, p. 14.
[2] OJ No C 54, 26. 2. 1983, p. 2.

In the case in point even if the reduction in the electricity charges is achieved, ISL's viability remains in doubt, since the Irish market is too small to absorb a level of ISL output sufficient to secure an adequate level of capacity utilization for the undertaking.

The second indent of Article 2 (1) provides that the restructuring programme must result in a reduction in the production capacity of the aided undertaking.

Article 2 (3) provides that in taking decisions on applications for aid submitted to it pursuant to restructuring programmes, the Commission shall take account of the special situation of Member States having only one steel undertaking whose effect on the Community market is minimal. Since this is the case with Irish Steel Ltd, the Commission can limit its appraisal to the viability of the undertaking.

V

The Commission must supervise the grant of the aids authorized and observance of the conditions imposed by it. 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 the entirety of 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 [1] under Article 58 of the ECSC Treaty and its extension is considered necessary.

VI

In view of all the above, the Commission cannot authorize the proposed aids unless the conditions and requirements laid down in this Decision are fulfilled,

HAS ADOPTED THIS DECISION:

Article 1

The following aids for continued operation which the Irish Government plans to grant to ISL are not compatible with the orderly functioning of the common market unless the conditions and requirements of Articles 2 and 3 are fulfilled:

— £ Irl 89 million of new capital, and

— £ Irl 18 million of guarantees to prefinance this capital if necessary.

Article 2

The aids may be paid only if the Commission is satisfied, on the basis of information supplied to it by 31 January 1984, that the undertaking can return to financial viability by the end of 1985.

Article 3

The aid that is absolutely necessary for the continued operation of ISL until 31 January 1984 may be paid, provided that the undertaking fulfils its obligations in respect of the ECSC Treaty rules, in particular those governing production quotas, if the Commission is satisfied, on the basis of an application by the Irish Government specifying the amount, form and purpose of the aid, that ISL is on target for achieving the objective referred to in Article 2.

Article 4

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 undertaking has made towards achieving financial viability.

Article 5

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,

(1) OJ No L 191, 1. 7. 1982, p. 1.

— 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 6

This Decision is addressed to Ireland.

Done at Brussels, 29 June 1983.

For the Commission

Frans ANDRIESSEN

Member of the Commission