COMMISSION DECISION

of 29 June 1983

concerning the aids that the Netherlands Government proposes to grant to the steel industry

(Only the Dutch text is authentic)

(83/398/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 30 September 1982, the Netherlands Government notified the Commission of its intention to grant aids to the steel undertakings Hoogovens and Nedstaal. After an initial scutiny of the proposed aids for compatibility with Articles 2, 3, 5 and 7 of Decision No 2320/81/ECSC, on the basis of the information supplied to it, the Commission concluded that the restructuring plan for the Netherlands steel industry would result in a slight increase in capacity for hot-rolled products between 1980 and 1985. It therefore initiated in respect of the aids the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC and on 30 November 1982 sent a letter constituting formal notice to the Netherlands Government to submit its comments.

II

In its letter dated 30 December 1982 in reply to the Commission's letter, the Netherlands Government submitted *inter alia* that:

— the capacity increases that had already taken place as a result of investment that had received a favourable opinion from the Commission should not be taken into account in assessing the aids now notified,

— for reasons of market strategy, Nedstaal could not afford to reduce its capacity by closing down or modifying its plant,

— the low intensity of aid granted in the past and planned for the future merited a lower capacity reduction in the Netherlands than in the other Member States.

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

III

The aids proposed by the Netherlands Government are as follows:

— investment aid:
  — grants of Fl 212 million,
  — a non-subsidized loan of Fl 150 million,
  — a low interest loan of Fl 24 million,
  — acquisition of a shareholding of Fl 130 million (to be regarded as containing an aid element if the subscription price exceeds the stock exchange price of the firm's shares),
  — government guarantees on possible ECSC loans;
— aid for continued operation:
  — a participative loan of Fl 570 million.

To justify the aid, the Netherlands Government has proposed a net capacity reduction for hot-rolled products of 250 000 tonnes, mainly to be achieved by closure of the Demka mill.

IV

The second indent of Article 2 (1) of Decision No 2320/81/ECSC provides that the restructuring programmes of aided undertakings must result in an overall reduction in their production capacity. The revision of the Netherlands plan since its notification involves a capacity reduction for hot-rolled products of 250 000 tonnes between 1980 and 1985.

(1) OJ No L 228, 13. 8. 1981, p. 14.
(2) OJ No C 44, 15. 2. 1983, p. 2.

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 effort must be accepted by the Netherlands steel industry. Accordingly, the Netherlands steel industry must reduce its capacity for hot-rolled products by 700 000 tonnes over and above the reduction of 250 000 tonnes 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 [1] under Article 58 of the ECSC Treaty 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,

HAS ADOPTED THIS DECISION:

Article 1

The following aids which the Netherlands Government plans to grant to the steel undertakings Hoogovens and Nedstaal 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:
  — grants of Fl 212 million,
  — a non-subsidized loan of Fl 150 million,
  — a low interest loan of Fl 24 million,
  — acquisition of a shareholding of Fl 130 million (to be regarded as containing an aid element if the subscription price exceeds the stock exchange price of the firm's shares),
  — government guarantees on possible ECSC loans;

— aid for continued operation:
  — a participative loan of Fl 570 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 700 000 tonnes, in addition to the reduction of 250 000 tonnes that has been proposed to justify the aids and to the reductions already accepted as justification for aid authorized by the Commission. 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.

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

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 Netherlands 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 the undertakings concerned until 31 January 1984 may be paid, provided that the undertakings fulfil their 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 Netherlands 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 achieving 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.

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 Kingdom of the Netherlands.

Done at Brussels, 29 June 1983.

For the Commission

Frans ANDRIESSEN

Member of the Commission

(1) OJ No L 333, 20. 11. 1981, p. 35.