COMMISSION DECISION

of 29 June 1983

concerning the aids that the United Kingdom Government proposes to grant to the steel industry

(Only the English text is authentic)

(83/399/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 United Kingdom Government notified the Commission of its intention to grant aids to the British Steel Corporation (BSC). After an initial scrutiny of these aids in the light of the provisions of Decision No 2320/81/ECSC, and on the basis of information provided by the United Kingdom Government, the Commission concluded that BSC's viability was not guaranteed, that there was no capacity reduction proposed to justify the larger part of the aids proposed and that the planned increase of capacity for hot-rolled coils was not compatible with Article 2 (1) of Decision No 2320/81/ECSC, since there was no growth on the market for these products. 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 United Kingdom Government to submit its comments. By means of the same letter the United Kingdom Government was also informed that the Commission had decided to raise no objection to the grant of a tranche of the aids notified in the form of new capital, justified on the basis of a net capacity reduction for hot-rolled products amounting to 404 000 tonnes.

Furthermore, by letter dated 30 September 1982, the United Kingdom Government notified the Commission of its intention to grant aids to the steel firm Sheerness Steel Co. Ltd. After an initial scrutiny of these aids in the light of the criteria laid down in Articles 2 and 3 of Decision No 2320/81/ECSC, the Commission, on the basis of the information in its possession, concluded that there was no capacity reduction proposed to justify the aids. For this reason, the Commission considered that the aids in question were not compatible with the orderly functioning of the common market and therefore initiated, in respect of them, the procedure provided for in Article 8 (3) of Decision No 2320/81/ECSC.

Accordingly, the Commission, on 30 November 1982, sent a letter constituting formal notice to the United Kingdom Government to submit its comments.

II

In its reply dated 15 March 1983 the United Kingdom Government stated that BSC was not expected to break even in 1984/85, that its financial requirement to end 1985 might increase by £ 719 million and that the new Corporate plan for the period 1983 to 1986 was in preparation. By means of the same letter the United Kingdom authorities requested authorization to provide an interim payment of £ 550 million which would allow BSC to continue operations to end June 1983.

By letters dated 10 June and 24 June 1983 respectively, the United Kingdom Government informed the Commission that the aids to Sheerness Steel Co. Ltd would be implemented only if new reductions in capacity

(1) OJ No L 228, 13. 8. 1981, p. 14.
(2) OJ No C 54, 26. 2. 1983, p. 3 and OJ No C 67, 12. 3. 1983, p. 4.

were made by Sheerness Steel or other United Kingdom steel undertakings.

In their replies, two other Member States and a federation of undertakings of the sector were in general agreement with the conclusions of the Commission. The Commission, by letter dated 8 April 1983, informed the United Kingdom Government that it had decided to raise no objection to the grant of a further tranche of the notified aids to BSC, in the form of new capital, amounting to £ 550 million. A net capacity reduction of 871 000 tonnes in hot-rolled products, of which 300 000 tonnes was still to be identified, justified the authorization of this tranche.

By letter dated 25 May 1983 the United Kingdom Government informed the Commission that it had adapted its initial notification by increasing the total amount of aids to BSC up to the end of 1985 by £ 710 million and identifying a new net capacity reduction of 500 000 tonnes in hot-rolled products.

III

The total amount of aids to BSC still subject to the procedure of Article 8 (3) of Decision No 2320/81/ECSC amounts to £ 1 474 million. The United Kingdom authorities have not provided a breakdown by objective. The *pro rata* breakdown of this amount would be as follows:

— investment aid:

  £ 642,6 million in new capital and Regional Development Grants, for total investment costs amounting to £ 665 million;

— aid for closures:

  £ 203,4 million in new capital;

— aid for continued operation:

  £ 580,0 million in new capital; and

— aid for research and development:

  £ 47,2 million in new capital.

The capacity reduction proposed by the United Kingdom Government to justify these aids amounts to 200 000 tonnes of hot-rolled products after taking account of the 300 000 tonnes which remained to be identified from the Commission's last aid authorization.

The investment aids to Sheerness Steel Co. Ltd which are still subject to the procedure of Article 8 (3) of Decision No 2320/81/ECSC are:

— a grant of £ 4 375 000 representing 25 % of eligible costs of the investment programe and constituting a Category B Assistance under the Private Sector Steel Scheme and,

— a grant of £ 250 000 under the Microprocessor Application Scheme.

The United Kingdom Government has not proposed any capacity reduction to justify these aids.

The aids taken into consideration include State guarantees for any ECSC loans granted.

IV

The first indent of Article 2 (1) of Decision No 2320/81/ECSC provides that the recipient 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 of making it financially viable without any aid under normal market conditions. In the case of BSC, on the basis of the volume of sales assumptions made by the undertaking itself, with no further reductions in the capacity of production for hot-rolled wide strip, the level of capacity utilization for this product will be about 60 % in 1986. In view of the importance of the production of hot-rolled strip to BSC's activities such a level of capacity utilization does not appear to be sufficient to guarantee the firm's viability.

The second indent of Article 2 (1) provides that the restructuring programme must result in an overall reduction in the production capacity of the recipient undertaking or group of undertakings. According to the returns made by Sheerness Steel Co. Ltd to the Commission's annual investment surveys its capacity to produce hot-rolled products will increase by 170 000 tonnes for the period 1980 to 1985.

The second indent of Article 3 (1) and the third indent of Article 5 (1) provide that the amount and intensity of investment aids and aids to continued operation must be justified by the extent of the restructuring effort involved; moreover, the capacity reductions which are required in order to obtain an overall capacity reduction at a Community level of 30 to 35 million tonnes in hot-rolled products should be distributed fairly; this level of overall capacity reduction is, in view of the General Objectives for Steel, necessary to allow a return to a level of capacity utilization which is considered the minimum required to restore the viability of the Community steel industry under normal market conditions; on this basis and after taking into consideration the restructuring effort made and the aids granted before 1980, a supplementary effort must be accepted by the United Kingdom Steel Industry; therefore BSC should reduce its capacity by 500 000 tonnes of hot-rolled products, over and above

the 200 000 tonnes now remaining to justify the aids proposed; an appropriate net reduction in capacity for hot-rolled products must be proposed in favour of Sheerness Steel Co. Ltd in order to make the aid proposed in favour of it compatible with the orderly functioning of the common market. A deadline should be established for the identification of the additional closures to be provided by BSC and the closures that should be implemented by Sheerness Steel Co. Ltd.

V

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

The capacity reductions must be obtained by the complete closure of equipment 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. In the context of the realization of the objective of adapting the capacity of production to demand, the creation of any 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 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 can authorize the aids proposed for BSC, subject to observance of the conditions and requirements laid down by it; however, it cannot authorize the aids proposed for Sheerness Steel Co. Ltd unless the conditions and requirements laid down in this Decision are fulfilled,

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

HAS ADOPTED THIS DECISION:

Article 1

1. The following aids which the United Kingdom Government plans to grant to British Steel Corporation 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:

  £ 642,6 million of which £ 534,6 million as new capital and £ 108 million as Regional Development Grants;

— aid for closures:

  £ 203,4 million in new capital;

— aid for continued operation:

  £ 580,8 million in new capital and;

— aid for research and development:

  £ 47,2 million in new capital.

2. The following investment aids which the United Kingdom Government plans to grant to Sheerness Steel Co. Ltd are not compatible with the orderly functioning of the common market unless the conditions and requirements set out in Articles 2 to 5 are satisfied:

— a grant of £ 4 375 000 representing 25 % of eligible costs of the investment programme and constituting a Category B Assistance under the Private Sector Steel Scheme, and

— a grant of £ 250 000 under the Microprocessor Application Scheme.

Article 2

1. (a) The undertaking to which it is planned to grant the aids referred to in Article 1 (1) shall carry out further net reductions in its production capacity for hot-rolled products of at least 500 000 tonnes, in addition to the reduction of 200 000 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.

(b) In order that the aids referred to in Article 1 (2) may be compatible with the orderly functioning of the common market, the undertaking to which it is planned to grant the aids shall, as justification for them, carry out appropriate net reductions in its production capacity for hot-rolled products. 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 United Kingdom 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 fulfilled 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 undertaking referred to in Article 1 (1) 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 United Kingdom 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) of this Decision, 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,

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

— 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 United Kingdom.

Done at Brussels, 29 June 1983.

For the Commission

Frans ANDRIESSEN

Member of the Commission