II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION
of 17 July 2002
on the State aid which Italy is planning to implement for ILVA SpA

(notified under document number C(2002) 2595)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2003/107/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 4(c) thereof,

Having regard to Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry [1], and in particular Article 6(5) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [2] and having regard to their comments,

Whereas:

I. PROCEDURE

(1) By letter dated 20 December 2001, registered as received on 21 December, Italy notified the Commission of planned aid for investments to be carried out by ILVA SpA at its Taranto plant.

(2) By letter dated 18 February 2002, the Commission informed Italy that it had decided to initiate the procedure laid down in Article 6(5) of Commission Decision No 2496/96/ECSC (hereinafter referred to as 'the Steel Aid Code') in respect of the aid.

(3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* [3]. The Commission invited interested parties to submit their comments on the aid.

(4) By letter dated 12 April 2002, registered as received on 17 April, Italy informed the Commission that, in view of the deadline of 22 July imposed by the Steel Aid Code for payment of the aid, ILVA SpA had waived the second and third instalments of the aid. It also informed the Commission that the company had decided that five of the 13 projects included in the original notification would not be carried out and that therefore no aid would be granted for them. The projects were described in paragraphs 8, 9, 13, 14 and 16 of the Decision to initiate proceedings. In the same letter, Italy submitted additional information on the remaining projects.

(5) By letter dated 18 April 2002, the United Kingdom Steel Association submitted comments on the aid. The Commission forwarded them to Italy, which was given the opportunity to react. Its comments were received by letter dated 22 May 2002.

II. DETAILED DESCRIPTION OF THE AID

(6) ILVA SpA is a producer of steel belonging to the Riva Group.

[1] OJ L 338, 28.12.1996, p. 42.
[2] OJ C 71, 20.3.2002, p. 6.
[3] See footnote 2.

(7) The aid is granted by the Ministry of Industry and Trade under Law No 488/92 for aid in depressed areas ('Converting and amending Decree Law No 415 of 22 October 1992 amending Law No 64 of 1 March 1986 containing an organic framework for extraordinary aid to the Mezzogiorno and rules for subsidising production activities'). The aid was approved on 9 April 2001, subject to authorisation by the Commission.

(8) Following the partial withdrawal of the notification referred to in recital 4, the costs considered eligible for aid by the Italian authorities amount to EUR 20 225 000. The aid granted under Law No 488/92 is calculated not on the basis of a fixed percentage of eligible costs but on the basis of a percentage expressed as the net grant equivalent (nge) within the limits of the maximum aid approved by the Commission for the aid scheme in question, according to the size of the firm and the location of the production unit. In the specific case of ILVA SpA, the percentage approved by Italy was 12,25 % nge, corresponding to EUR 3 034 000 to be paid in three instalments. However, because the company has waived the last two instalments, only one instalment will be paid. Therefore, the actual aid will amount to EUR 980 000 and will concern the following projects.

(9) Treatment of by-products in the coking plant; refurbishment of the three existing lines for the absorption of ammonia and the refrigeration of coking gas: these lines were completely renovated in 1991. Their remaining useful life at the time of the investment is more than 15 years. The total cost relates to necessary equipment and amounts to EUR 3 100 000. Of this amount, EUR 800 000 has been considered as maintenance costs. The eligible costs amount therefore to EUR 2 300 000.

(10) Replacement of the existing dust filtration system, which uses cyclones or electrostatic precipitators, by a new system that uses fabric: the statutory maximum level of emissions is 100 mg/Nmc. With this system, the level of dust in the smoke will fall from 50 mg/Nmc to 30 mg/Nmc, i.e. a reduction of 40 %. The existing system dates from the early 1970s and its remaining useful life at the time of the investment is 15 years. The eligible costs relate to necessary equipment and amount to EUR 1 292 000.

(11) Installation of a system for monitoring the emissions of the coke ovens and sintering plant: this is required by the regional authorities. The cost of the equipment amounts to EUR 1 033 000.

(12) Installation of a conveyor belt for the transportation of mineral to the homogenisation plant: this system will replace the transportation by lorry currently used. Dust emissions will be eliminated. The total cost of the project amounts to EUR 4 700 000. According to the Italian authorities, this investment will result in cost savings of EUR 312 000 per year. They have deducted EUR 2 500 000 as cost savings over 10 years. Costs considered eligible by the Italian authorities amount therefore to EUR 2 200 000.

(13) Installation of a new additional system for the regeneration of hydrochloric acid (Ruthner plant): this system (closed-circuit) will be added to the existing one which dates from 1978 and its remaining useful life at the time of the investment is 10 years. The statutory maximum level of emissions is 60 mg/Nmc. The concentration of hydrochloric acid in the smoke will fall from 55 mg/Nmc to 22 mg/NMC. Moreover, since it is a closed-circuit system, the pollutants contained in the water will no longer pass into the sewage. The cost of the equipment amounts to EUR 1 550 000.

(14) Improvement of the dust removal system for secondary emissions in blast furnace No 1: this installation dates from 1988 and its remaining useful life at the time of the investment is 12 years. The statutory maximum level of emissions is 100 mg/Nmc. The dust concentration will fall from 50 mg/Nmc to 30 mg/Nmc. The cost of the equipment amounts to EUR 1 550 000, from which EUR 500 000 has been deducted for costs not directly relating to environmental protection. Eligible costs amount therefore to EUR 1 050 000.

(15) Extension of landfill for special waste by 300 000 m^2: the waste is currently transported to special landfills outside the company's premises. This investment would eliminate the risks inherent in transporting the waste. According to the Italian authorities, this investment will reduce the costs of transporting and discharging the waste from EUR 70 per tonne/year to EUR 15 per tonne/year. The capacity of this extension is 60 000 tonnes per year. The investment amounts to EUR 1 290 000.

(16) Replacement of 350 PCB electric transformers with new transformers cooled using air or mineral oil: under Italian law, PCB transformers must be dismantled by 2010. These transformers were installed in the 1960s and 1970s. Their remaining useful life is over 20 years. No cost savings are generated by this investment. The investment amounts to EUR 9 510 000.

III. **COMMENTS BY INTERESTED PARTIES**

(17) The United Kingdom Steel Association expressed doubts about the environmental purpose of the investments referred to in recitals 11, 13 and 15. With respect to the investments referred to in recitals 10 and 16, it asked the Commission to ensure that they were not being undertaken simply because the existing equipment had reached the end of its normal life. With respect to the investments referred to in recitals 9, 12, 14 and 16, it considered that these are likely to result in cost savings that should be deducted from the eligible costs.

IV. **COMMENTS BY ITALY**

(18) Since the Commission's doubts arose mainly from the lack of information contained in the notification, the Italian authorities simply provided the missing information.

V. **ASSESSMENT OF THE AID**

(19) ILVA SpA manufactures products listed in Annex I to the ECSC Treaty. It is therefore an undertaking within the meaning of Article 80 of that Treaty to which the Steel Aid Code applies.

(20) Article 3 of the Steel Aid Code stipulates that steel companies may receive aid for environmental investments. The criteria for assessing whether such aid is compatible with the common market are set out in the Annex to the Steel Aid Code and in the Community guidelines on State aid for environmental protection [4] (hereinafter 'the 1994 environmental guidelines').

(21) According to the 1994 environmental guidelines, aid ostensibly intended for environmental protection measures but which, in fact, is aid for general investment is not covered by the guidelines. The eligible costs must be strictly confined to the extra investment costs necessary to meet environmental objectives [5]. Also according to these guidelines, aid to help firms adapt to new mandatory standards plant that has been in operation for at least two years can be authorised up to the level of 15 % gross of the eligible costs (point A, first paragraph) and aid for investment which will allow the firm to improve on mandatory standards or which is undertaken in the absence of standards may be authorised up to 30 % gross of the eligible costs (point B, first paragraph).

(22) According to the Annex to the Steel Aid Code, the Commission will analyse the economic and environmental background to a decision to opt for replacement of existing plant or equipment. In principle, a decision to undertake new investment which would have been necessary in any event on economic grounds or on account of the age of the existing plant or equipment (remaining useful life of less than 25 %) will not be eligible for aid. Furthermore, any advantage in terms of lower production costs will be deducted.

(23) With respect to the replacement investments referred to in recitals 10, 13, 14 and 16, given in particular that they will not affect the production installations and that their remaining useful life is more than 25 %, the Commission considers that they are environmental investments.

(24) With respect to the investment relating to the treatment of by-products in the coking line (see recital 9), given that the gases will be reintegrated within the network and reused by the company, the Commission considers that this may be the main purpose of the investment. The Italian authorities claim that there are no cost savings generated by this investment. This contradicts, however, their statement that emissions will be reduced in quantity and in quality by 20 % (for which, moreover, they have not provided evidence). The Commission cannot therefore conclude that the investment will significantly improve on environmental protection, as required by the 1994 environmental guidelines. Moreover, no cost savings have been deducted from the eligible costs. In these circumstances, the Commission's doubts as to whether the investment is eligible for environmental aid have not been allayed.

(25) With respect to the investment concerning the installation of a conveyor belt (see recital 12), given the cost savings generated and the limited impact in terms of environmental protection, the Commission considers that it has been undertaken for economic reasons and that it is not, therefore, eligible for aid. In any case, even deducting the cost savings generated would lead to the same conclusion, i.e. non-eligibility for aid.

(26) With respect to the investment concerning the extension of the landfill for special waste (see recital 15), the Commission notes that it will not lead to a reduction in pollution but rather to a reduction in the costs of dealing with the waste. Indeed, the cost reductions will compensate amply for the investment. In these circumstances, the Commission considers that this investment is undertaken more for economic reasons and that it is not, therefore, eligible for aid. In any case, even deducting the cost savings generated would lead to the same conclusion, i.e. non-eligibility for aid.

(27) With respect to the investment concerning the installation of a system for monitoring the emissions of the coke ovens and sintering plant (see recital 11), the Commission notes that, although it is intended to comply with the legal obligations imposed by the regional authorities, it is equipment intended not to reduce or eliminate pollution and nuisances or to adapt production methods (as required by point 3.2.1. of the 1994 environmental guidelines) but merely to measure actual pollution levels. In these circumstances, the investment is not eligible for environmental aid.

[4] OJ C 72, 10.3.1994, p. 3.
[5] See point 3.2.1 of the guidelines.

(28) With respect to the investment concerning the replacement of electric transformers (see recital 16), the Commission notes that the new equipment is intended to comply with new legal obligations and that it will reduce or eliminate pollution. Therefore, according to point 3.2.A of the 1994 environmental guidelines, the maximum aid for this investment is 15 % gross of the eligible costs, i.e. EUR 1 426 500.

(29) With respect to the investments described in recitals 10, 13 and 14, the Commission notes that they will allow for significantly higher levels of environmental protection and that the cost savings generated by them have been deducted. According to point 3.2.B of the 1994 environmental guidelines, the maximum aid for these investments is 30 % gross of the eligible costs, i.e. EUR 1 167 600.

(30) The Table below gives a summary of the eligible costs and of the maximum aid allowed under the 1994 environmental guidelines:

	Net eligible costs (EUR)	Maximum aid intensity (%)	Maximum aid (EUR)
Dust filtration	1 292 000	30	387 600
Ruthner plant	1 550 000	30	465 000
Dust removal	1 050 000	30	315 000
Replacement of transformers	9 510 000	15	1 426 500
Total	13 402 000		2 594 100

(31) In these circumstances, given that the aid will consist only of the first instalment of the approved aid, i.e. EUR 980 000 (see recital 8), the aid intensity is in conformity with the Steel Aid Code.

VI. **CONCLUSION**

(32) In view of the foregoing, the State aid amounting to EUR 980 000 that Italy intends to grant to ILVA SpA under Law No 488/92 for the projects referred to in recital 30 is compatible with the common market. With respect to the rest of the notified aid, in view of the withdrawal of the notification (see recital 4), the procedure initiated on 18 February 2002 is closed,

HAS ADOPTED THIS DECISION:

Article 1

The State aid amounting to EUR 980 000 which Italy plans to implement under Law No 488/92 for ILVA SpA in respect of projects to be carried out at its Taranto plant is compatible with the common market.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 17 July 2002.

For the Commission

Mario MONTI

Member of the Commission