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In accordance with Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (OJ L 43, 15.2.1983, p. 1), as amended by Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 (OJ L 243, 27.9.2003, p. 1), this file is open to the public. Where necessary, classified documents in this file have been declassified in conformity with Article 5 of the aforementioned regulation.

In Übereinstimmung mit der Verordnung (EWG, Euratom) Nr. 354/83 des Rates vom 1. Februar 1983 über die Freigabe der historischen Archive der Europäischen Wirtschaftsgemeinschaft und der Europäischen Atomgemeinschaft (ABl. L 43 vom 15.2.1983, S. 1), geändert durch die Verordnung (EG, Euratom) Nr. 1700/2003 vom 22. September 2003 (ABl. L 243 vom 27.9.2003, S. 1), ist diese Datei der Öffentlichkeit zugänglich. Soweit erforderlich, wurden die Verschlussachen in dieser Datei in Übereinstimmung mit Artikel 5 der genannten Verordnung freigegeben.

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(85) 376 final

Brussels, 19 July 1985

RULES ON AID AND FINANCIAL TRANSFERS TO THE STEEL INDUSTRY AFTER 1985

(Memorandum from the Commission to the Council)



COM(85) 376 final

Rules on aid and financial transfers to the steel industry
after 1985

(Memorandum from the Commission to the Council)

1. By the end of this year, the structural objectives which the Community adopted in 1980-81 when it introduced the steel aids code, and which were further specified at the meeting of Industry Ministers at Elsinore in late 1982, will have been achieved.

Supply and demand will, overall, have been brought back into the degree of balance the Community was aiming for by a reduction of over 30 million tonnes in capacity for hot-rolled products. As a result, the Community industry is expected to be operating in 1986 at an average rate of around 70% of capacity; the rate will, it is true, be somewhat below this for most long products and for plate, but it will be considerably higher for wide and narrow strip and wire rod.

Concurrently, with the help of public financial support, unprecedented for any industry, on a varying but never unsubstantial scale, Community steel firms will have been put into a technical and financial shape such that, unless the market deteriorates, they should be viable; for several of them, however, this only applies provided that they consolidate their adjustment over the coming years, both with further capacity reductions and with modernization investment.

In this connection it should be noted that the criteria the Commission has applied in assessing the viability prospects of firms that have received aid (and almost all Community firms have done so to varying degrees) include their ability to provide for normal depreciation of plant. Consequently, there

is no justification for their investment to be aided in future.

2. The special circumstances which justified the authorization, under the Community scheme based on Article 95 ECSC which expires on 31 December 1985¹, of a series of types of aid which would otherwise have been incompatible with the common market under Article 4(c)ECSC therefore no longer obtain.

There will, it is true, still be overcapacity in the industry in 1986, for some product categories more than for others. However, firms should now be left to make at their own expense the adjustments in capacity their own competitive position requires, as firms in so many other industries faced with serious structural adjustment problems are having to do without having had the benefit of the Community solidarity shown to the steel industry.

The Community must ensure that this process is allowed to happen by a progressive, though rapid, restoration of market forces. For this purpose, it is necessary to provide a legal framework of substantive rules and enforcement procedures to prevent financial support by Member States from obstructing this process, and even jeopardizing the improvement in the balance between supply and demand already achieved.

The Council unanimously expressed its political support for such an approach when it agreed that all aid authorized under the aids code must be paid by the end of 1985 and that no further aid should be authorized thereunder after that date.

3. In early Autumn, after consulting the Consultative Committee, the Commission will therefore seek the Council's assent for a draft decision restricting severely the types of aid which Member States might be authorized from now on to give to their steel industries, whether under schemes specifically for the steel industry or under more general

¹ Decision 2320/81/ECSC

schemes also covering other industries. The main features of the rules will be as follows :

(1) Aid to cover operating losses and all aid for investment, even under regional or general aid schemes and even where the investment does not lead to an increase in the firm's capacity, will be prohibited.

(2) Aid for research and development and for environmental protection will be permitted, after authorization by the Commission, on similar conditions and within similar limits as the Commission applies or proposes to apply to aid to industries coming under the EEC Treaty.

In view of the public interest aspect of such aid, to deny it to the steel industry would be an unjustified discrimination.

(3) The considerable overcapacity that will persist after 1985 appears to the Commission to justify the authorization of aid to encourage the closure of inefficient plants that will have to be closed sooner or later and pending a decision to close may in the meantime depress the market to the detriment of the whole Community industry.

Under this heading of closure aids the Commission should be able to authorize until 31 December 1988 aid for the following purposes:

- to cover the actual costs (redundancies, demolition and site reclamation, compensation for breach of contracts) directly occasioned by the closure of complete rolling plants and plants supporting them with intermediate products, which are actually in production on 1 January 1986 and whose closure

had not been provided for under Decisions 2320/81 or 1018/85/ECSC.

- to provide firms closing such plants with compensation not exceeding their value as determined by an independent valuer on the basis of the residual value of the plant itself and/or the discounted value of its return, in which the two limiting cases would be:
 - plants which are fully depreciated but which still generate a gross margin², and where they would be closed only in return for an incentive covering the value of their future return;
 - more modern plants which still have high depreciation costs to cover but are operating at a loss, and where the closure incentive could not exceed the residual depreciation costs.

The Commission considers that closure aids cannot be permitted under any circumstances to distort conditions of competition in the market place. To this end, the Commission intends to apply strict means of control.

Such compensation would be refundable if the firm subsequently increased its capacity in the same sector or in other ECSC activities without authorization or was found to be breaching Community rules on prices.

Any transfers of public funds involving an aid element that could not be justified under one of the above three headings (aid for research and development, environmental protection or closures) will be prohibited.

4. The enforcement of strict and exclusive rules on aid to the steel industry after 1985 also requires scrupulous vetting of Member States' provisions of equity capital to steel firms, especially where they are already publicly owned.

² difference between selling price of output and variable costs

The draft decision will therefore provide that all such provisions of capital, like cases of proposed aid of the types referred to above, must be notified to the Commission before the operation takes place. The Commission will determine whether the operation involves an aid element. The criteria it will apply for this purpose will be closely modelled on those explained to the Member States in its statement on "Public authorities' holdings in company capital".³

Briefly, this will mean that any provision of capital (or comparable financial transfer) by governments that is carried out in circumstances such that the State cannot expect a return on its investment comparable to that a private investor would require to undertake the same type of operation will be regarded as including an aid element.

5. The Commission invites the Council:-

- to confirm its agreement that strict Community discipline on aid to the steel industry will apply from 1 January 1986;
- to approve the guidelines set out in the Commission's communication (COM(85)376) on rules on aid and financial transfers to the steel industry after 1985;
- to note the intention of the Commission to prepare on the basis of these guidelines a proposal, on which the Council undertakes to give its assent, pursuant to Article 95 of the ECSC Treaty, in time for the Commission to adopt its decision before 31 December 1985.

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cf letter ref. SG(84) D/11839 of 17 September 1984.