

**Commission communication on the information to be provided by steel undertakings  
when submitting requests to benefit from Articles 14 and 15 of Decision No 1696/82/  
ECSC and on the criteria adopted by the Commission for the application thereof**

*(Article 58 of the ECSC Treaty)*

In an attempt to overcome the difficulties still prevailing on the steel market, the Commission, in Decision No 1696/82/ECSC of 30 June 1982 <sup>(1)</sup>, extended for one year (from 1 July 1982 to 30 June 1983) the system of quotas for certain categories of iron and steel products.

In Decision No 2751/82/ECSC of 6 October 1982 <sup>(2)</sup>, the Commission amended Article 14 of Decision No 1696/82/ECSC in order to make provision for the possibility of adjusting quotas if the quota system creates exceptional difficulties for certain undertakings.

In the light of the order of the President of the Court of 20 September 1982 in Case 220/82/R: *Moselstahlwerke v. Commission*, the Commission has revised the rules that it was previously following for the application of Article 14.

Steel undertakings are hereby informed that in future the Commission will examine in much greater detail whether the difficulties created for an undertaking are *exceptional* compared with the difficulties experienced by its competitors and whether they are caused by the quota system.

In order to enable the Commission to investigate these points, undertakings should provide a statement of reasons and adequate documentary evidence, and in particular the following information:

- rate of utilization (quota/mpp per quarter),
- changes in their financial situation and the reasons for such changes,
- any new factors which may be causing special difficulties.

Article 15 of Decision No 1696/82/ECSC contains other provisions whereby undertakings restructuring programmes which conform to the general objectives may also benefit from modifications of reference production and quantities and quotas.

In view of the significance of the operations concerned as regards the application of Article 15, the Commission hereby informs the steel undertakings of the rules which it intends to follow in implementing that Article.

### **I. General**

1. For Article 15 to be implemented it is necessary that the Commission find the full and detailed restructuring plan of the undertaking to be in conformity with the general objectives.

2. Where undertakings wish to exchange reference production and/or reference quantities, each undertaking involved must submit a restructuring programme in accordance with the terms of the Article. Where reference production or quantities are to be transferred outright, only the transfer or undertaking need submit its restructuring programme.

3. All permanent closure from 1 January 1980 onwards shall be eligible for inclusion.

Permanent closure of a plant shall be constituted by immediate shutdown followed by dismantling or export to a third country within six months.

Permanent closure shall also be constituted by conversion of the plant concerned in such manner that the category of products to be exchanged or transferred can no longer be produced.

The undertaking must give the Commission a pledge that it will not take any steps to enable production of the product concerned to be resumed at a later date.

Renting, sale or other use of the plant by a third party in the Community shall not constitute permanent closure.

4. A new mill within the meaning of the Article must present all the features listed in Questionnaire 2/20 of the Statistical Office of the European Communities. Investments whereby the existing capacity of a mill or, as the case may be, a processing line (sheet or strip coating plant as defined in Questionnaire 2/20) is increased by 100 % or more shall be treated as new mills.

The capacity of new production potential must be verified by on-the-spot checking before adjustment of the reference production. If such advance checking is not feasible, the Commission decision shall state that the Commission reserves the right to vary it should particulars furnished by the undertaking prove incorrect.

<sup>(1)</sup> OJ No L 191, 1. 7. 1982.

<sup>(2)</sup> OJ No L 291, 15. 10. 1982.

**II. Article 15 (1): transfers and exchanges of reference production and reference quantities**

The Commission may approve exchanges between reference production and quantities of categories of products under the quota system and exchanges between reference production and quantities of finished rolled products and end products in Questionnaire 2/13 of the Statistical Office of the European Communities which do not come under the quota system for reference production and quantities of categories of products which do not come under the quota system.

**III. Article 15 (2), first indent: internal adjustment of reference production**

The reference production of all the Questionnaire 2/13 categories of finished rolled products and end products shall be reallocable. Where the category of products to be reallocated does not come under the quota system, the annual reference production shall be:

— for categories II and III, the reference production determined under the voluntary arrangements run by the Commission,

— for the other categories of products not covered by Article 1 of Decision No 1696/82/ECSC, the sum of the production for the best 12-month period plus that of the 12 months previous to the undertaking's application divided by two. The same shall apply to categories II and III in the case of undertakings not asked by the Commission to adhere to the voluntary arrangements.

**IV. Article 15 (2), second indent: adjustment of reference production for new mills, etc.**

Adjustment shall be allowed in the case of plant for making products with regard to which the general objectives consider an increase in capacity to be permissible, and of wire mills brought into operation between 1 January 1981 and 1 July 1982.

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**Commission communication under Article 115 of the EEC Treaty**

By Decision dated 2 December 1982 the Commission has authorized the Kingdom of Belgium and the Grand Duchy of Luxembourg not to apply Community treatment to tomatoes, falling within subheading 07.01 M I of the Common Customs Tariff and originating in Spain (including the Canary Islands), and in free circulation in the other Member States.

The said Decision is applicable from 13 November to 31 December 1982.

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