II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 1 February 2003

establishing the measures necessary for the implementation of the Protocol, annexed to the Treaty establishing the European Community, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel

(2003/76/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Protocol, annexed to the Treaty establishing the European Community, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, and in particular Article 2 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Whereas:

(1) Under Article 97 of the Treaty establishing the European Coal and Steel Community (ECSC), the Treaty expired on 23 July 2002.

(2) The Protocol annexed to the Treaty establishing the European Community, (hereinafter referred to as 'the Protocol') transfers the assets and liabilities of the ECSC to the European Community and allocates the net worth of these assets, as they appear in the balance sheet of the ECSC of 23 July 2002, to research in the sectors related to the coal and steel industry. This use of the assets is consistent with the resolution on growth and employment adopted by the European Council at its meeting in Amsterdam on 16 and 17 June 1997 [3], and with the resolutions of the Council and the Representatives of the Governments of the Member States, meeting within the Council, of 20 July 1998 [4] and 21 June 1999 [5].

(3) It is necessary to determine the distribution of the research appropriations between the two sectors concerned.

(4) It is necessary to establish the rules for implementing the Protocol, and in particular the decision-making procedures for adopting the multiannual financial guidelines for managing the assets of the Research Fund for Coal and Steel and the multiannual technical guidelines for the research programme of the Research Fund for Coal and Steel (hereinafter referred to as 'the programme'), bearing in mind that unless otherwise provided in this Decision, the Commission is responsible for the management of the assets in accordance with the relevant provisions of the Treaty establishing the European Community and secondary legislation adopted on the basis thereof.

(5) When the ECSC Treaty expires, certain financial operations, involving both revenue and expenditure, will still be outstanding, resulting from the implementation of ECSC operating budgets for earlier years and ECSC borrowing and lending activities.

(6) It is necessary to designate the institution responsible for winding-up these operations and establishing the procedures needed to do so. It would be appropriate to entrust the Commission with the winding-up and to decide that the procedures to be followed will be those in force at 23 July 2002, in accordance with the ECSC Treaty and secondary legislation.

(7) At its meeting of 11 September 1996, the Commission concluded that reserves should be kept to cover, after 2002, 100 % of the outstanding loans not covered by a Member State guarantee. The ECSC funds administered totalled approximately EUR 1,6 billion on 23 July 2002. The amount will vary depending on the financial activities still to be carried out before and after the expiry of the ECSC Treaty.

(1) OJ C 180, 26.6.2001, p. 4.
(2) OJ C 177, 25.7.2002, p. 28.
(3) OJ C 236, 2.8.1997, p. 3.
(4) OJ C 247, 7.8.1998, p. 5.
(5) OJ C 190, 7.7.1999, p. 1.

(8) Where debtors default during the liquidation period after 23 July 2002 and in order to guarantee the annual stability of the coal and steel research Instrument, any default by an ECSC debtor should first be charged to the capital and then to the revenues funding research,

HAS ADOPTED THIS DECISION:

Article 1

1. The Commission shall be entrusted with winding-up the financial operations of the European Coal and Steel Community which are still in progress when the ECSC Treaty expires. Where an ECSC debtor defaults during the liquidation period, the resulting loss shall be charged first to the existing capital and then to the revenue of the current year. The Commission, before writing off any claim against an ECSC debtor in default, will exhaust all remedies including the call on guarantees (mortgages, cautions, bank guaranties or other). The Commission will reserve all possible actions in case that the debtor regains solvency.

2. The liquidation shall be conducted in accordance with the rules and procedures applying to these operations, with the Community institutions enjoying the existing powers and prerogatives provided for by the ECSC Treaty and secondary legislation in force on 23 July 2002.

Article 2

1. The assets shall be managed by the Commission in such a manner as to ensure a long-term return. The investment of the liquid assets should be aimed at the highest possible yield that is compatible with security.

2. The Council, acting by qualified majority on a proposal from the Commission and after consulting the European Parliament, shall adopt multiannual financial guidelines for management of the assets.

Article 3

1. Each year a profit-and-loss account, balance sheet and financial report shall be drawn up to show, separately from the other financial operations of the remaining Communities, the liquidation operations provided for in Article 1 and the investment transactions under Article 2.

These financial statements shall be annexed to the financial statements drawn up by the Commission annually under Article 275 of the EC Treaty and the Financial Regulation applicable to the general budget of the European Communities.

2. The powers of the European Parliament, the Council and the Court of Auditors concerning control and discharge as set out in the Treaty establishing the European Community and in the Financial Regulation applicable to the general budget of the European Communities shall apply to the operations referred to in paragraph 1.

Article 4

1. Net revenue from the investments provided for under Article 2 shall constitute revenue in the general budget of the European Union. This revenue shall be earmarked for a specific purpose, namely financing research projects in the sectors related to the coal and steel industry not covered by the Research Framework Programme. It shall form the Research Fund for Coal and Steel and shall be managed by the Commission.

2. The revenue referred to in paragraph 1 shall be distributed, 27,2 % being allocated to the coal-related research and 72,8 % to the steel-related research. Should it prove necessary, the Council, acting unanimously on a proposal from the Commission, shall modify the breakdown between coal-related research and steel-related research.

3. The multiannual technical guidelines for the programme shall be adopted by the Council acting by qualified majority on a proposal from the Commission and after consulting the European Parliament.

4. Unused revenue and appropriations deriving from this revenue still available on 31 December in any given year shall be carried over automatically to the following year. These appropriations may not be transferred to other budget items.

5. Budgetary appropriations corresponding to cancellations of commitments shall automatically lapse at the end of each financial year. Provisions for commitments released as a result of the cancellations shall be entered in the balance sheet and the profit-and-loss account provided for in Article 3(1) and shall return initially to the assets of the ECSC in liquidation and subsequently, on completion of the liquidation, to the Assets of the Research Fund for Coal and Steel. Amounts recovered shall similarly be entered in the balance sheet and the profit-and-loss account.

Article 5

1. Net revenue available to finance research projects for year n+2 shall be recorded in the balance sheet of the ECSC in liquidation of year n and, on completion of the liquidation, in the balance sheet of the Assets of the Research Fund for Coal and Steel.

2. In order to minimise fluctuations in research funding due to movements on the financial markets, a smoothing shall be effected and a provision made for a contingency. Details of the calculations for smoothing and determining the size of the contingency provision are contained in the Annex.

Article 6

Administrative expenditure resulting from liquidation, investment and management operations referred to in this Decision, corresponding to the expenditure laid down in Article 20 of the Treaty establishing a Single Council and a Single Commission of the European Communities of 8 April 1965, the amount of which was adjusted by the Council Decision of 21 November 1977, shall be met by the Commission from the general budget of the European Union.

Article 7

The Commission shall determine the amount of the assets and liabilities of the ECSC in a balance sheet closed at 23 July 2002.

Article 8

This Decision shall take effect on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 24 July 2002.

Article 9

This Decision is addressed to the Member States.

Done at Brussels, 1 February 2003.

For the Council

The President

G. PAPANDREOU

ANNEX

Procedures to be followed to establish the amount of net revenue to be allocated to the Research Fund for Coal and Steel

1. INTRODUCTION

Net revenue which may be used to finance research projects corresponds to the annual net result of the ECSC in liquidation and subsequently, when liquidation has been completed, to the annual net result of the Assets of the Research Fund for Coal and Steel. The method employed consists of establishing the funding for coal and steel research for year n+2 when producing the balance sheet for year n, taking into account half of the increase or decrease in the net result in relation to the last level of funding adopted for coal and steel research.

2. DEFINITION

n: reference year

R_n: net result for year n

P_n: contingency provision for year n

D_{n+1}: allocation for research for year n+1 (established when the balance sheet for year n – 1 is produced)

D_{n+2}: allocation for research for year n+2

3. ALGORITHMS USED

The algorithms used to establish the size of the contingency provision and the allocations for research for year n+2, which will appear in the balance sheet for year n, are as follows:

3.1. size of contingency provision:

$$P_n = P_{n-1} + 0{,}5 * (R_n - D_{n+1})$$

3.2. allocations for research for year n+2 (rounded up or down to the nearest EUR 100 000. If the calculation gives a result exactly halfway, the allocation shall be rounded up to the nearest EUR 100 000):

$$D_{n+2} = D_{n+1} + 0{,}5 * (R_n - D_{n+1})$$

Where appropriate, the amount needed for rounding up (or the amount left over from rounding down) will be taken from (or returned to) the contingency provision.