II

(Preparatory Acts)

COMMISSION

Draft decision of the representatives of the Governments of the Member States of the European Coal and Steel Community, meeting within the Council concerning the financial consequences of the expiry of the Treaty establishing the European Coal and Steel Community

(2001/C 180 E/01)

(Text with EEA relevance)

COM(2000) 519 final

(Submitted by the Commission on 6 September 2000)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COAL AND STEEL COMMUNITY, MEETING WITHIN THE COUNCIL

Whereas:

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

(2) Certain financial operations will at that date still need to be carried out, involving both revenue and expenditure and resulting from the implementation of ECSC operating budgets for earlier years and ECSC borrowing and lending activities.

(3) 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.

(4) 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 ex-ECSC funds administered will total 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 Treaty.

(5) In order to distinguish ECSC assets from other Community Funds, after expiry of the Treaty, they shall be referred to as the 'ECSC in liquidation'. To the same end, once the liquidation has been completed, they will be referred to as the 'assets of the Coal and Steel Research Fund'. Finally, in order to differentiate between net revenue and the assets generating that revenue, the former shall be referred to as the 'Coal and Steel Research Fund'.

(6) It is necessary to decide on the future use of these assets. It should be pointed out in this connection that they derive primarily from the levy on coal and steel production set up pursuant to Article 49 of the ECSC Treaty; it therefore seems right that the assets should benefit the two economic sectors in question.

(7) The most suitable use for the assets which would benefit the coal and steel sectors is research. It is also necessary to determine the distribution of the research appropriations between the two sectors.

(8) The most appropriate way of doing this is to assign the assets to the European Community and to establish rules and procedures to ensure that the assets and the revenue they generate are used solely for the abovementioned purpose.

(9) This use and this procedure are consistent with the resolution on growth and employment adopted by the European Council at its meeting in Amsterdam on 16 and 17 June 1997 and the resolutions of the Council and the Representatives of the Governments of the Member States, meeting within the Council, of 20 July 1998 ([1]) and 21 June 1999 ([2]).

(10) 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.

(11) It is also necessary to define the ownership of the other ECSC assets,

HAVE DECIDED AS FOLLOWS:

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.

([1]) OJ C 247, 7.8.1998, p. 5.

([2]) OJ C 190, 7.7.1999, p. 1.

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 of the European Coal and Steel Community shall automatically devolve to the European Community, including all property, rights, duties, claims and actions as they exist on 23 July 2002, subject to any increase or decrease which may occur as a result of the liquidation operations mentioned in Article 1; the European Community shall pay all charges attaching to these assets. All the assets, save property which is immovable by its nature, by its intended use or by the purpose which it serves, shall be considered assets intended for research in the coal and steel sectors, referred to as the 'ECSC in liquidation'. On completion of the liquidation they shall be referred to the 'assets of the Coal and Steel Research Fund'.

2. The assets may be augmented by contributions and, in particular, contributions from future new Member States.

Article 3

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

2. The Council, acting by qualified majority as provided for under Article 205 of the EC Treaty on a proposal from the Commission after receiving the opinion of the European Parliament, shall adopt multiannual financial guidelines for management of the assets.

Article 4

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 3.

These financial statements shall be incorporated into 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 Parliament, the Council and the Court of Auditors concerning control and discharge as set out in the Treaties and the Financial Regulation shall apply to the operations referred to in paragraph 1.

Article 5

1. Net revenue from the investments provided for under Article 3 shall constitute revenue in the budget of the European Communities. Within the meaning of the second indent of Article 4(3) of the Financial Regulation, this revenue shall be earmarked for a specific purpose, namely financing research projects in the coal and steel sectors not covered by the framework programme. It shall form the Coal and Steel Research Fund and shall be managed by the Commission.

2. The amounts yielded by the Fund shall be distributed, 27,2 % being allocated to the coal sector and 72,8 % to the steel sector. 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 technical multiannual guidelines for the research programmes shall be adopted by the Council acting by qualified majority under Article 205 of the EC Treaty on a proposal from the Commission after receiving the opinion of the European Parliament.

4. In accordance with the provisions contained in the Financial Regulation, 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 profit-and-loss account provided for in Article 4(1) and shall return initially to the assets of the ECSC in liquidation and subsequently, when liquidation has been completed, to the assets of the Coal and Steel Research Fund. Amounts recovered shall similarly be entered in the balance sheet and profit-and-loss account.

Article 6

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 once liquidation has been completed, in the balance sheet of the assets of the Coal and Steel Research Fund.

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

Article 7

Administrative expenditure resulting from the liquidation and from the investment and management of the Coal and Steel Research Fund, which replaces that 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 Communities.

Article 8

New Member States may, during accession negotiations, acquire a share of the assets of the Coal and Steel Research Fund, and, where appropriate, the ECSC in liquidation or the Fund, once they have made the necessary contributions, due regard being had to decisions adopted in the past in similar situations.

Article 9

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

Article 10

This Decision shall enter into force on 24 July 2002.

ANNEX

PROCEDURES TO BE FOLLOWED TO ESTABLISH THE AMOUNT OF NET REVENUE TO BE ALLOCATED TO COAL AND STEEL RESEARCH

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 Coal and Steel Research Fund. 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

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 hundred thousand euros. If the calculation gives a result exactly halfway, the allocation shall be rounded up to the nearest hundred thousand euros):

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

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.